

ORIGINAL

FILED

06/06/2019

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 19-0334

In the Supreme Court of the State of Montana

Carl Lee Russell - Appellant / Defendant

vs

District Court # 18-125 (B)

State of Montana: Appellee

DA 19-0334

FILED

JUN 06 2019

Notice of Appeal

Bowen Greenwood
Court
State of Montana

Defendant / Appellant hereby presents this his Notice of Appeal of the District Court judgment entered on May 17, 2019 in Cause D. C. 18-125 (B) in the Eleventh Judicial District Court.

The issues presented are Constitutional and the Alford plea; entered under coercion and duress - is invalid.

A TRIAL COURT Lacked Constitutional subject matter jurisdiction because the allegations entered by the State were falsified and fabricated thereby depriving the Court of Probable Cause.

B TRIAL COURT Lacked subject matter jurisdiction to allow the State to amend a facially invalid information by presentation of a void and invalid judgment of conviction in support of the Amendment.

C TRIAL COURT forfeited jurisdiction by allowing the State to amend an information without an affidavit in support.

D TRIAL COURT does not acquire subject matter jurisdiction from a void and invalid judgment of conviction rendered in a sister state.

E Judicial misconduct of Constitutional proportions by failure to bring Petition for Writ of Habeas Corpus challenging the subject matter jurisdiction of the court.

F Judicial misconduct of Constitutional proportions where TRIAL COURT ignored Appellants challenge of the Courts jurisdiction at the initial appearance and entered a plea on Appellants behalf without consent or constitutional authority.

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G Judicial Misconduct of Constitutional proportions where the trial court ignored a defense motion for Franks hearing.

H Judicial Misconduct of Constitutional proportions where trial court allowed the state to amend a fatally defective information that did not provide lawful and constitutional probable cause but then denied Appellants timely motion for additional discovery in light of the substantive differences in the allegations of elements in the offense charged.

I Judicial Misconduct of Constitutional proportions where the trial court allowed the state to amend an unconstitutional and fatally defective information more than 415 days after the motion to file information had been granted depriving Appellant of his right to a speedy trial.

J Judicial Misconduct of Constitutional proportions where the trial court created an unconstitutionally coercive environment to force Appellant to resort to an Alford plea to escape the unconstitutional detention of the state.

K Knowing, Deliberate and Intentional Prosecutorial Misconduct, Official Oppression and Malicious Prosecution through which the state systematically deprived Appellant of Constitutional Due Process of Law.

L Deprivation of a fair and impartial proceeding.

M Ineffective assistance of counsel - failure to investigate lack of jurisdiction of the trial court.

N Ineffective assistance of counsel - failure to object to trial courts failure to prove jurisdiction once challenged for constitutional cause.

O Ineffective assistance of counsel - failure to investigate a lack of probable cause to support state's allegation.

P Ineffective assistance of counsel - failure to investigate law enforcement and state's attorney having fabricated evidence and falsification of government records.

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IX Ineffective Assistance of Counsel - Failure to file a Motion to dismiss; written and provided by Appellant, alleging the trial court lacked subject matter jurisdiction. Counsel claimed he would be stripped of his licence to practice law if he filed such a motion.

R Ineffective Assistance of Counsel - Failure to file Motion to Dismiss for Lack of Probable Cause where the judgments alleged by the State in its Affidavit in Support did not exist.

S Ineffective Assistance of Counsel - Failure to investigate judgments alleged in the States Affidavit in Support which had been rendered in a sister state but which did not exist and had been fabricated by law enforcement and the States Attorney.

I Alford plea entered by Appellant on May 17, 2019 is an invalid plea as the trial court did not possess subject matter jurisdiction over initial information or the amended information.

II Alford plea entered by Appellant on May 17, 2019 is an invalid plea where trial court obtained plea by duress, coercion and incompetence of counsel.

V Alford plea entered by Appellant on May 17, 2019 is entered only to escape the unconstitutional detention without Probable Cause and the corruption of the Nazi style tactics of the State and Court of Flathead County Montana and where Appellant had been under authority of arrest since March 5, 2018 - a total of 415 days - prior to the Amending information, all of which by reason of fabricated evidence in support of Probable Cause.

Cecil Russell

Cecil Lee Russell Defendant / Appellant in Pro Se
895 A Se Florida St
Amarillo Texas 79106

Executed on this 2nd day of June, 2019

Certificate of Service

I, Cecil Lee Russell hereby certify that a true and correct copy of the enclosed Notice of Appeal has been served on the below listed Parties by U.S. Mail

District Clerk Flathead County, Montana
800 So Main St Room 114
Kalispell, Montana 59901

Office of the Flathead County Attorney
Attention Alison Howard
800 So Main St
Kalispell, Montana 59901

Clerk Montana Supreme Court
P.O. Box 203003
Helena, Montana 59620-3003

on this 2nd day of June, 2019

Cecil Russell

Cecil Lee Russell Defendant / Appellant in Pro Se