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SUPREME COURT OF THE UNITED STATES

CASE NO: 18 - 7248

VERTIS JEROME ANTHONY  
Plaintiff

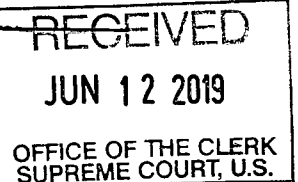
Vs.

LOUIS BOYD, WARDEN, et al.,  
Respondants

(Appeal from USCA No: 17 - 14510)

A P P L I C A T I O N F O R R E H E A R I N G  
Pursuant to U.S. Supreme Court Rule 44.2

Vertis Anthony  
Prisoner # 282673  
Bibb CF - Inmate Legal Mail  
565 Bibb Lane  
Brent, Alabama 35034



## APPLICATION FOR REHEARING STATEMENT

This application for rehearing was originally sub-mitted and received by the Clerk of this court April 23, 2019. It was returned for correction and re-submitted and received by the Clerk of this court May 21, 2019. However, May 21, 2019 it was returned again upon per court request to conform the application in accordance to U.S. Supreme Court Rule 44. All these corrections where given the time limit of 15 days to re-submit.

Therefore, the issue was the extent of the Circuit Court's Subject Matter Jurisdiction on appeal whereupon this cause is absent available corrective state process. Thus, the Circuit Court Jurisdiction limits was exceeded and could not render judgment. See Ex Parte Smith::Supreme Court Of Alabama (1983), 438 So. 2d 766. " Per ARCP 14dc in this cause implicate the Circuit Court was without Subject Matter Jurisdiction to enter a judgment."

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Review Of The Issues

SUPREME COURT OF THE UNITED STATES

OFFICE OF THE CLEK

WASHINGTON, DC 20543-0001

April 10, 2019

Vertis J. Anthony  
Prisoner # 282673  
Bibb CF- Inmate Legal Mail  
565 Bibb Lane  
Brent, Alabama 35034

In Demand, Trial By Jury.  
Amonut In Controversy: \$5,508.00

Re: Vertis Anthony v. Louis Boyd, Warden, et al., Case No: 18 - 7248  
To: The Supreme Court Of The United States Notice Of Filing Application Of Re-  
Hearing: April 08, 2019

Request For Application Of Re-Hearing

The plaintiff moves the court to direct the parties to appear before the Court for a prehearing conference to consider the simplification of the issues and such other matters as may aid in the disposition of the proceeding by this court.

In support of said motion, the following facts are shown to the court:

United States Supreme Court Rule 44.2, Rehearing.

2.)...grounds shall be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

1. The U.S. District Court incorrectly concluded the principle of law involving filing fees, in terms of in forma pauperis. Ala. Code §12-19-70.

2. The trial court Lack Subject Matter Jurisdiction as set out in F.R.Cri.12(b) and 52(b).

See: §2254(b(i,ii))

i.) Absence of available state corrective process

1. Court failed to establish jurisdiction venue

a.) Unsigned complaint / Warrant

b.) Amount in contriverty coupled with un-through investigation alleviated the corrective process of the District Court. Ala. Code 1975 §§12-11-9, 12-12-31, 12-12-72

ii.) Circumstances exist that render such process ineffective to protect the rights of the applicant.

2. See: F.R.Civ.P.58, Entry of Judgment

SUPREME COURT OF THE UNITED STATES

Application of Re-Hearing Cont.

- 3.) The state improperly applied an unreasonable application of clearly established Federal Law. A.) §5(a) Clayton Act (15 USCS §16(a))  
B.) Fed.R.Cri.P. 11(f)  
a. Fed.R.Civ.P. Rule 410(Rules Of Evidence)  
C.) 2254(d(1,2)) 35 years exceeds that for Assault II.  
a. 35 years exceeds that of carrying conceal  
weapon.  
D.) 52 - 41704; Current Alabama Pistol License Number
- 4.) 5th Amendment requiring that prosecution must begin by indictment in all felony offenses.
5. 5th Amendment requiring probable cause under Oath or Affirmation, being that the 4th Amendment Of The United States implicates the truth, the whole truth and nothing but the truth....
  1. Federal Sentencing Guidelines implicates Breach of Sentencing contract, in that there are no provisions sufficiently controlling provisions per Ala. 1975 §13A-6-2 and 13A-4-2, and between 13A-6-20 or 13A-6-21 that would provide a fair sentence range. See Ala. Code §13A-1-3(2,3,4,5,6)  
a.) The state construed Ala. Code 1975 Code Sections of categories involving 'B' and 'C' Offense Categories to also be applicable that for class 'A' offense category. See: 13A-4-2 & 13A-6-2, (2)(a) is not the same as that for 13A-6-20 and 13A-6-21. See: Ala. Code 1975, Page 318.
  2. Failure to give notice at sentencing, whereas the sentencing judge improper jurisdiction venue was appealed when not giving notice upon upward departure on unauthorized sentence.
  - 3.) Omitted evidence. Being the offense involved the use of a weapon, the Federal's rule applied. See: U.S. v. Sherbondy, 865 F. 2d 996, "Federal law applies when determining whether defendant has been convicted of at least three (3) felonies, so as to be subjected to sentence enhancement on Federal Firearms charge; Portion of Federal Firearm statutes requiring courts to follow law of jurisdiction in which proceeding where held when determining what constitutes conviction for purpose of firearm provision does not operate to displace definition in firearm statute of violent



SUPREME COURT OF THE UNITED STATES

Application Of Re-Hearing Cont.

felony "in preference to reference to state law."

a.) Federal Sentencing Guidelines §2A2.1, Assault with intent to Commit Murder; Attempted Murder

... 2. Upward departure provision. If the offense created a substantial risk of death or serious bodily injury to more than one person, an upward departure maybe warranted.

1.) See: Appendix C Guidelines Manual

663 Amend. The Commentary to §2A1.1 "The term substantial covers injuries thats temporary in a manner which cause substantial impairment to body..." as in this instant styled cause.

6.) The Trial Court construed the statute in a manner that violated the plaintiff constitutional rights.

1.) Constitutional provision (Art. IV. §2) as to title and subject of law. The Alabama Constitution provision which declares "Each law shall contain but one subject, which shall clearly expressed in its title "(Art. IV. §2), is Mandatory. ..." See: Art. IV. §§13 and 19

See Also: Supreme Court Of Alabama (1885)

78 Ala. 517::Stein v. Leeper, Violation of Ala. Constitution, Art. IV. §19

Supreme Court Of Alabama (1888)

87 Ala. 240::Judson v. Bessemer

Art. IV. §2

Thus, violation of Ala. Constitution Amend. No. 328, §6.11

Inflected form of a noun.

Suffixation upon the term Murder brought about change to the base meaning of the term in a manner that implicated foreign and or irregular plural(duplicity) to the noun form of Murder which consist of zero plural. Such as the term night, it can not be said that night may also be pronounced day. Therefore the inflected plural form of (Attempt[ed] Murder) affix Suffixation of Attempt harbored with past participle -ed bestow upon the noun a compound pluralization. Once implemented, the form of the noun in terms of the base word (base level offense) established double (Multiple) elements, thus a variance.

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Review Of The Facts And Argument

Re-Hearing Pursuant to U.S. Supreme Courts Rule[44.2] and Rule[39.2]

Whether if the magistrate properly concluded the plaintiff motion for leave to appeal per informa pauperis was denied predicated upon precluding plain error as set forth under Alabama Rules Of Appellate Procedure 45 (ERROR).

1.) ALA. CODE 1975, §12-19-70 Informa Pauperis

The plaintiff claims are no more frivolous than the abuse of discretion to allege an informa pauperis bar. See: Hoppin v. State:: Court Of Criminal App.Ala., 451 So. 2d 363 (1982). In that, the filing fee the state alleges is not cognizable under statute, Ala. Code 1975 §12-19-70(b).

Hence, §12-9-70(a) implicate the filing fee associated with the initial process of the Complaint; and again, that particular procedural process did not meet the prerequisite; via, subscribe complaint/warrant by a judge or magistrate. Neither does the fee amounts to anything other than a written motion after the original complaint so as to fall within the scope of Ala.R.Civ.P.5(a), rather than Ala. R.Civ.P. 4.

Therefore, the District Court erred in denying appeal because the state setforth no legal basis under Ala. Code 1975 §12-19-70 to deny a petition under 28 USC 636, §1915. Wherefore, Lack of Subject-Matter is apparent from this unresolved issue and can be determined from the volume of violations of the Rules and Regulations. See: U.S. Constitution 4, F.R.Civ.P.4, Ala. Code 1975 §15-17-4, A.R.Civ.P.3.2 .

Looking to Spears v. McCotter::766 F. 2d 179 (1985), the trial court being the respondents represented by the D.A. Ben Reeves took position on the circumstances where the inform pauperis precedence had been granted in all precedents prior to the U.S. District Court. However, apparently predicated upon the instant motion for leave to file; viz, informa pauperis, was a continuum of the same unresolved issue previously granted. In that, the Attorney General recommend for the state "such motions should be denied as frivious where the legal point lack arguable merits", was abuse of discretion. See:F.R.Civ.P.

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Rule 58, Entry Judgment, 28 USCA (1992).

2.) F.R.CRI. 12(b) AND 52(b) Subject Matter Jurisdiction

Per Rule 12(b), "Every defense, in law or fact, to a claim for relief in any pleading, ..., shall be asserted in the responsive pleading thereto if one is required. ..." Whereas, the plaintiff consistently provided.

Per Rule 52(b), upon motion "When findings of facts are made in actions tried by the court without a jury, the question of the sufficiency of the evidence to support the finding may thereafter be raised whether or not the party raising the question has made in the district court an objection to such findings or has made a motion to amend them or a motion for judgment. "

Therefore, Alabama law implicates upon appeal, where a claim will be dismissed on the merits when the amount in controversy is not indicated on the record of appeal. See: Cash v. Smith, 10 Ala. 417, 65 So. 193 (1914), Must Show Jurisdiction Amount on Appeal. If the record does not show whether the circuit court is exercising original or appellate jurisdiction, but the amount in controversy is within the original jurisdiction, on appeal to the higher court, the case will be treated on the merits.

In that, the final judgment was not absolute because it contain an unresolved matter of law which precluded a final judgment. When the trial court judgment was in fact a transfer of the case from the civil nature to that of the criminal division (court of criminal appeals) when this matter should have gone before the court of Civil Appeals. In this manner, it served as a tactic to re-enforced a judgment to be final judgment. Thus final judgment in this sense would not support an appeal within the scope of Ala. Code 1975, §12-22-2, implicating §12-11-9. Moreover, the issues raised by the plaintiff should have been raised to the court of civil appeals, rather than the courts of criminal appeals. See: Moore v. State, 888 So. 2d 1248, 2004 Ala. Cir. App. Lexis 147 (Cir.App. 2004). Therefore, the state did willfully not respond.

Further Spears v. McCotter, citing Irving v. Thigpen, 732 F. 2d 1215, 1216 n.2 (5th Cir. 1984) Holding, "Since the court could not determine the merits of Irving's Complaints prior to Service without Concluding that Complaint (See: Ala. Code 1975, §15-7-4 and A.R.Cri.P. 3.2. was frivolous." However, in this instant styled cause, is a violation of the plaintiff U.S. Constitutional rights implemented within his 4th amendment (probable cause subscribed by Magistrate), 5th

## SUPREME COURT OF THE UNITED STATES

amendment (double jeopardy, being tried twice for same conduct, and having to answer for infamous crime without first by indictment), 6th (right to counsel and speedy trial), 7th (the right to a jury trial), 8th (protection against crule and unusual punishment), 9th (ensures the implementation of all rights) and the 14th (ensures the implications of other rights through the preservation of due process)

Therefore, any legal resolution that involves a question of law must be resolved prior to reaching the equitable resolution. (U.S. constitution Amendment 7). Thus, it can not be said that a judgment lies final where a legal issue exist within the conviction. Moreover, equitable resolution can not stand to be controlling provisions to legal resolutions would then become undisputed facts.

Whether if the circuit court judge lacked authority to issue a decree on the plaintiff A.R.Cri.P. 32 post-conviction relief upon said judgment was void, thus any appeal thereform dismissed. See: Ala. Code 1975 §15-7-4, A.R. Civ.P. 3.2 and or F.R.Cri.P.4. Thus implicating F.R.Cri.P.12(b), and 52(b). See Also:§2254(b)(1), (B(i,ii)) and (d(1,2)). Therefore, remand is necessary because the process omitted §§12-12-31, 12-12-72. See: Crawford v. Kindred, 418 So.2d 908, 1982 Ala.Civ.App.Lexis 1261 (Ala.Civ.App. 1982) Appeals which are not taken in the manner prescribed by statute or Supreme Court Rule, must be dismissed; Billy G. Hallman v. City Of Northport:: 368 So. 2d 756, Appeal and Error. Right to appeal is truthfully statutory, and an appeal taken without statutory authority must be dissmised for want of jurisdiction.

The trial transcript did not show where the court had jurisdiction to rule on plaintiff post-conviction relief. Amount in controversy not on record. See Ala. Code 1975 §15-21-24.

### 3.) UNREASONABLE APPLICATION OF CLEARLY ESTABLISHED FEDERAL LAW

Ala.R.Appellate P. 45(Plain Error) is applicable under F.R.Cri.P. 12(b),52(b). Thus, 2254(d(1,2)) provides decisions that was contrary to, involved an unreasonable application of clearly establish Federal Laws, as determined by the Supreme Court of the United States. See: Rosales Mireles v. U.S.:138 S.Ct. 1897, U.S. Supreme Court Held, "Application of an unduly burdensome articulation of Olano's 4th prong and declining to remand a case for resentencing under

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Fed. Rule Cri.P. 52 was an abuse of discretion because in the ordinary case, the failure to correct a plain U.S.S.G. error would seriously affect the fairness, integrity and public reputation of judicial proceedings. See: F.R.Cri.P. 12(b)

3.(A) 3.(A) Violation of the §5(a) Clayton Act (15 USCS §16(a))

The plaintiff 1994 prior conviction could not be used to implement an upward departure.

3.(B) a.) Pleas are considered Nolo Contendere Plea.

3.(B)(a) Accordingly, F.R.Cri.P. 11(f) Pleas, are governed by Fed.R.Of Evidence, Article IV. (Relevance and its Limits) Rule 410 (Pleas are Consent Decrees)

3.) Consent decrees. For purpose of provision §5(a) of Clayton Act (15 USCS §16(a)), consent judgment between Federal agency and private corporation which is not a result of an actual adjudication of any issues may be equated with Nolo Contendere and therefore under F.R.Of Evidence 410 (Annotated) may not be against party who pleaded. Lipsky v. Com'n United Corp. 551 F. 2d 887, 22 Fed.R. Serv. 2d (allaghen) 799 (2d Cir. N.Y. 1976)

3.(C) However, Ala. Code 1975, Chapter 5, Article I., §13A-5-6 cover only imprisonment for felonies. Therefore, the state took this proceedings out of the guiding principles when seeking a life sentence for a first time incarceration. See:CR284 Line 13-20. Thus, leaving the offense charged in a murder concept and being the state ask for a life sentence, the only provision that sufficiently covers it is §13A-5-56(D).

§13A-5-46(d). Sentencing hearing conducted before jury unless waived; trial jury to suit unless impossible or impracticable; separation of jury; instruction to jury; advisory verdicts; vote required; Mistrial of rights to advisory verdict.

(d) After hearing the evidence and the arguments of both parties at the sentencing hearing, the jury shall be instructed on its function and on the relevant law by the trial judge. The jury shall then retire to deliberate concerning the advisory verdict it is to return.

However, resentencing would've resolved this issue if the state wouldn't have waived it rights to do so upon initiation of this post conviction relief procedent. In that, the only relief cognizable per §2254 is immediate Release as the plaintiff so Demands.

## SUPREME COURT OF THE UNITED STATES

Therefore, 35 years without any good-time where the short term and long term released date is set at 2046 or 35 years exceeds the above mention criteria. The trial court erred at sentencing where §2A2.2 Aggravated Assault implicates the presence of a dangerous weapon only does not effect the base level in terms of enhancement pursuant to subsection §2A2.2(b)(2) on different aspects such as to a degree of certainty did the weapon was a risk to the resultant life, if the situation involved two or more victims and or if the corporal harm exceeds that for a lesser degree of an offense charged. Thus, contrary to CR285 Line 18 - 19 where the motion for enhancement was based on the ground that it was used. See Ex Parte Edwards, Supreme Court Of Alabama:: 452 So. 2d 508, citing Saylor v. State::719 So. 2d 266, "evidence of substantial risk of death as that term is used in §13A-1-2(14) was lacking the fact that could have been complications from an injury is insufficient to establish serious physical injury as defined. See:Amendment 663, Appendix C Fed. Sentencing Guideline Manual where temporary injuries; however, substantial, but not the same as the statute sets out as permanently.

### 4.) U.S. CONSTITUTION 5TH AMENDMENT, Felony prosecution must begin by indictment.

Therefore upon implementation, implicates a breach of contract; via, sentencing. No sufficient controlling provision within Ala. Code 1975, that would stipulate a fair sentence range. See Also:Supreme Court Of Alabama (1995) 662 So. 2d 229::Ex Parte Roberts,"The Supreme Court has long recognized that the double jeopardy clause protects a person not only from being subject to double punishment, but also from being put to trial twice for the same offense."

Ex Parte Roberts..."The state must prove all the elements of the offense charged against the defendant. When the state fails to present sufficient proof of all the elements, a conviction must be reversed and a judgment for the defendant must be rendered. The Double Jeopardy Clause forbids a second trial for the purpose of affording the prosecution another opportunity to supply evidence which it failed to muster in the first proceeding.

### 5.) U.S. CONSTITUTION 4TH AMENDMENT

Oath or Affirmation as derived from the "The Truth, The whole Truth, And.."

See: Ala. Code 1975, §13A-1-3 General provisions for the title implicate a solecism prespective upon the plaintiff sentence and upon incarceration by way

SUPREME COURTS OF THE UNITED STATES

- 1.), the trial court construed the statute in a manner that gave effects to attempted murder as being consummated homicide. See Cockrell v. State, 890 So. 2d 174(2004), <at 890 So. 2d 184> "...Can not conclude that the legislature intent, explicitly applicable in consummated homicide, applicable also to attempted murder." was error.
- 2.), This perspective was a variance which permitted another variance within ADOC classification of old code change prior to 1980. Old code 025 attempt to commit murder changed to 13A-6-20 is the same principle discussed in Warren v. State, 598 So. 2d 1058 (Ala.Cri.App. 1992)

Therefore if interpreted in this manner is contrary to Ala. Code. 1975 §13A-1-3, under the standard of the U.S. Consti. 4th Amendment.

See:13A-1-3, 2.)To give fair warning of the nature of the conduct proscribe and of the punishment, authorized upon conviction.

- 3.) To define the act or omission and the accompanying Mental State that constitute each offense.
- 4.) To differentiate on reasonable grounds between serious and minor offenses and to prescribe proportionate penalties for each.
- 5.) To insure the rehabilitation of those convicted and their confinement...
- 6.) To prevent arbitrary or oppressive treatment of person accused or convicted of offenses.(Acts 1977, No. 607, p.812, §105.)

Accordingly, the plaintiff was denied IGT; in that, ADOC miscalculated the time he's to serve. Thus, implicating violations of Ex Post Facto Law. See Ex Parte Ronnie Wayne Thrower, 591 So. 2d 117(Ala.1991) illustrate the same principle divested in the plaintiff ground No. 5. Therefore, ADOC Policy interpreted explicitly states after 1980 code change Old Cold 025 attempt to commit murder was changed to 13A6-20.

In that, ADOC Classified the plaintiff under A002 Attempted Murder as consummated homicide (As seen in Cockrell v. State) was error. Dispite whether the trial court construed the statute; upon incarceration, ADOC should have implicated its repealed regulation as set forth in former statute 14-9-20. See Warren v. State, 598 So. 2d 1058 (Ala.Crim.App.1992). Thus, the Plaintiff was entitled to that classification change pursuant to ADOCCM 2.3 (Director of Classification responsibility). 2.3 Assuring that all approved classification policies, procedure and Criteria comply with state law and existing Court Orders.

SUPREME COURT OF THE UNITED STATES

Accordingly, 2016 Fed. Sentencing Guideline Manual §2A2.1 Assault with Intent to Commit Murder; Attempted Murder.

2. Upward departure provision. If the offense created a substantial risk of death or serious bodily injury to more than one person, an upward departure may be warranted.

Thus, in this sense the appellate court should have remanded plaintiff's claim because post conviction petitions where defendant was improperly convicted of an offense according to Ala. Code 1975 §13A-4-2 and §13A-6-2(a); and §13A-6-20. See: Barnett v. State, 783 So. 2d 927 (Ala.Cri.App.2000). The merger doctrine bars felonies assault which merge with homicide; thus, the assault can not serve as an underlying felony in a non-fatal incident. Greer v. State::Court Of Cri. App., 475 So. 2d 885(1985) <\*at 475 So. 2d 891>," The code section dealing with assault in the first degree, §13A-6-20, pertains only to incidents where the victim was seriously injured in some fashion but was not killed. ..."

As convicted, the offense charged implicates both a Class 'A' Offense and a Class 'B' Offense is not the Legislature intent. See: Supreme Court Of Alabama, 890 So. 2d 168, 2003 Ala. Cri. App. Lexis 162(Ala.Court Of App. 2003), aff'd, 890 So. 2d 174 Ala. Lexis 114 (Ala. 2004)::Cockrell v. State, Harwood, Justice (Concurring Specially)..."[890 So. 2d 184] can not conclude that legislature intent, explicitly applicable in consummated homicides, applicable also to attempted murder. "

See Also:[890 So. 168(2003)] "It is well settled that intent for purposes of attempted intentional murder may be presumed from the use of a deadly weapon and the character of the assault." ..."Although the intent to kill a primary target does not transfer to a Survivor... ."

5. (3) §2254 (d)(1), involved an unreasonable application of, clearly established Federal law.

The State Misapplied Enhancement Provision.

Gun Enhancement. See CR285 Line 4-7 and 18-19

See U.S. v. Sherbondy, 885 F. 2d 996

"Federal Law applies when determining whether defendant has been convicted of at least three(3) violent felonies so as to be subjected to sentence enhancement on federal firearm charge; portions of the Federal Firearm statute requiring courts to follow law of jurisdiction in which proceeding were held determining what constitu-



SUPREME COURT OF THE UNITED STATES

tes conviction for purpose of firearm provisions does not operate to displace definition in firearm statute of violent felony "in preference to reference to to state law."

Standard Of Review  
SUPREME COURT OF THE UNITED STATES  
WASHINGTON, DC 20543-0001

§107.Review of state - court decision

The Constitution authorize the Supreme Court to Define Classes of Cases. See Congress v. Supreme Court, 1969, pp..225-296; Merry, Scope of The Supreme Court's Appellate Jurisdiction: Historical Basis, 1962,47 Minn. L. Rev. 53.

Act of Sept. 24, 1789, §25,1 stat. 73,85. Judicial Power extended to U.S. Supreme to review questions raised from state court decisions.

The First Congress, in the famous sec. 25 of the judiciary Act of 1789, authorizes sufficient bases for the U.S. Supreme Court to review state-court decisions.

Act of Feb. 5, 1867, §2,14 Stat. 385,386. 1887 statute extend U.S. Court Jurisdiction in important ways.

Act of Feb. 13, 1925, C.229, §1, 43 Stat. 937. Consist of the 1914 Amendment, which is operative today, permitting U.S Supreme Court to review state-court decisions.

28 U.S.C.A. §1257(a). Power to review Claims under the constitution, treatie, or ...The plaintiff was in the 5th year of a 6 year contract with the Georgia National Guard. In that, this situation infringed upon his rights and speacial privileges.

Instances where U.S. Supreme Court review state-court decisions predicated by no higher court resolution such as where fines imposed were below jurisdiction limits. See: Thomas v. City of Louisville, 1960, 80 S Ct. 624, 362 US 199, 4 L Ed 2d 654.

28 U.S.C.A. §1257 implicates Jurisdiction without awaiting completion of additional proceeding anticipated in the lower state courts.

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C O N C L U S I O N

Because it appears on the indictment that there is no informant in the case and an exception is reserved. See CR287 Line 8-16. Because Prosecution in this case being the offense alleged is a felony, must begin by indictment, U.S. 5th Amend. See; Strione v. U.S., 4 L Ed 2d 252, 361 US 212 (the crime charged being a felony and the fifth Amendment requiring that prosecution be begun by indictment). See Also: Ala. Code 1975 §15-21-24, §2254(b)(1), (B(i,ii)) and (d(1,2)). See Ala. Code 1876 §§4645, 4646 implicating Supreme Court Of Alabama 79 Ala. 1::Quartlebaum v. State, 1. Construction of statute in favor of its constitution. When a statute is fairly susceptible of two constructions, one of which uphold, and the other defeats its constitutionality, the former construction will be adopted, even though it be the less natural. See Also, Supreme Court of Alabama (1895)::109 Ala. 28, Harper v. State: Validity Test Prong

4.) Statute partly valid. Where a statute contains valid and invalid provisions, and invalid parts can be stricken from the act and leaves an enactment complete within itself, sensible, capable of being executed; and wholly independent of that which is rejected, the enactment will be upheld and enforced as to the valid parts. Article IV. Section 2

Therefore, if you take away Murder, Attempt can not be said to stand on its own. And or upon simplifications of the inquiry topic implicating a Inflected form of a noun.

Accordingly, pursuant to The Supreme Court Of Alabama (1983): 438 So. 2d 766, Ex Parte Smith. The Circuit Court was without Subject Matter Jurisdiction on appeal implicated upon exceeding its jurisdiction in sum, See Ala. Code 1975, §15-21-24. Thus, the Circuit Court jurisdiction in that cause was dismissed rather than transferred under Ala. Code 1975, §12-11-9 predicated upon ARCP 14(dc)

Therefore, the plaintiff respectfully request pursuant to the U.S. Constitution Amendment 7 per Rule 38 demand a trial that I might present sufficient evidence divested upon interest of his life and liberty.

**Additional material  
from this filing is  
available in the  
Clerk's Office.**