

IN THE SUPREME COURT OF MISSOURI
EN BANC

STATE ex rel. DWIGHT LAUGHLIN,)
)
 Petitioner,)
)
 vs.) No. SC90542
)
 MICHAEL BOWERSOX,)
)
 Respondent.)

Original Proceeding in Habeas Corpus

BRIEF OF PETITIONER
DWIGHT LAUGHLIN

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ORAL ARGUMENT REQUESTED

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES.....	2
JURISDICTIONAL STATEMENT.....	5
STATEMENT OF FACTS.....	6
POINT RELIED ON	8
Laughlin is entitled to an order discharging him from the sentence imposed in Case No. CR493-118FX, because the trial court lacked jurisdiction, in that the alleged crimes occurred at the United States Post Office in Neosho, Missouri, a federal enclave over which federal courts have exclusive jurisdiction under Article I, section 8, clause 17 of the United States Constitution and Sections 12.010 and 12.020, RSMo.....	8
ARGUMENT.....	9
A. Standard of Review.....	9
B. The Trial Court Acted Without Jurisdiction Because the Federal Courts Have Exclusive Jurisdiction Over the United States Post Office in Neosho, Missouri.....	10
C. Grant of Habeas Relief is Proper to Remedy Jurisdictional Defects.....	14
CONCLUSION	19
CERTIFICATE OF COMPLIANCE	20
APPENDIX	A1

TABLE OF AUTHORITIES

<u>Cases</u>	<u>Page</u>
<i>Brown v. State,</i> 66 S.W.3d 721 (Mo.banc 2002)	14, 17
<i>Coffman v. Cleveland Wrecking Co.,</i> 24 F. Supp. 581 (W.D. Mo. 1938).....	17
<i>Fort Leavenworth R.R. Co. v. Lowe,</i> 114 U.S. 525 (1885)	12
<i>Kansas City v. Stricklin,</i> 428 S.W.2d 721 (Mo.banc 1968)	15
<i>Merriweather v. Grandison,</i> 904 S.W.2d 485 (Mo.App. 1995).....	15
<i>Miller v. Wackenhut Servs., Inc.,</i> 808 F. Supp. 697 (W.D. Mo. 1992).....	13
<i>Murray v. Carrier,</i> 477 U.S. 478 (1986)	17
<i>Osburn v. Morrison Knudsen Corp.,</i> 962 F. Supp. 1206 (E.D. Mo. 1997).....	12
<i>State v. De Berry,</i> 32 S.E.2d 617 (N.C. 1945)	13
<i>State ex rel. Green v. Moore,</i> 131 S.W.3d 803 (Mo.banc 2004)	15

<i>State ex rel. Jones v. Mack,</i>	
47 P. 763 (Nev. 1897).....	13
<i>State ex rel. Meier v. Stubblefield,</i>	
97 S.W.3d 476 (Mo. 2003).....	18
<i>State ex rel. Nixon v. Jaynes,</i>	
63 S.W.3d 210 (Mo.banc 2001)	10, 14, 15, 17
<i>State ex rel. Simmons v. White,</i>	
866 S.W.2d 443 (Mo. 1993).....	15
<i>State ex rel. Zinna v. Steele,</i>	
301 S.W.3d 510 (Mo.banc 2010)	10, 14
<i>United States v. Frady,</i>	
456 U.S. 152 (1982)	18
<i>United States v. Heard,</i>	
270 F. Supp. 198 (W.D. Mo. 1967).....	12, 13
<i>Wiglesworth v. Wyrick,</i>	
531 S.W.2d 713 (Mo.banc 1976)	14

Other Authorities

Mo. Const. Art. I, § 12.....	5, 9, 14
Mo. Const. Art. V. § 4.....	5, 9
U.S. Const. Art. I, § 8	11
Sec. 12.010, RSMo.....	11, 16, 17, 18
Sec. 12.020, RSMo.....	11, 16, 17, 18

Sec. 532.010, RSMo.....	14
Sec. 532.430(1), RSMo	15
Sec. 541.020, RSMo.....	10
Sec. 541.191.1(1), RSMo	16
Sec. 541.191.1(3), RSMo	16
Mo. S. Ct. Rule 29.15	14
Mo. S. Ct. Rule 91	9, 10
1 Mo. Op. Att’y Gen. 23 (1953).....	17
40 U.S.C. § 255	12

JURISDICTIONAL STATEMENT

This original proceeding for habeas corpus relief concerns the issue of whether Petitioner Laughlin is discharged from continuing to serve his sentence due to the trial court's lack of jurisdiction over the underlying cause since the charged crimes occurred in a federal enclave, a United States Post Office located in Neosho, Missouri.

This Court has jurisdiction to "issue and determine original remedial writs," including writs of habeas corpus under Article V, section 4 of the Missouri Constitution. Further, Article I, section 12 of the Missouri Constitution provides that "the privilege of the writ of habeas corpus shall never be suspended."

This Court granted the writ of habeas corpus on March 2, 2010. Respondent filed his Return on March 10, 2010.

STATEMENT OF FACTS

On April 16, 1993, Petitioner Dwight Laughlin (“Laughlin”) was charged by the Prosecuting Attorney of Newton County, Missouri with one count of burglary in the first degree, a class B felony, and one count of property damage in the first degree, a class D felony. Pet. A-4. As to the burglary count, the State alleged that Laughlin “knowingly entered unlawfully in a building, located at 101 E. Hickory, Neosho, Missouri and owned by the United States Postal Service” Pet. A-4. As to the property damage count, the State alleged that Laughlin “knowingly damaged a safe, which property was owned by the United States Postal Service” Laughlin was also charged as a prior and persistent offender. Pet. A-4.

On May 10, 1993, Laughlin was found guilty by a jury of the charged crimes and was sentenced to imprisonment by the Department of Corrections for 30 years on the burglary count and 10 years on the property damage count, with said sentences to be served consecutively, for an aggregate 40 year sentence. Pet. A-5.

Laughlin filed a motion for post-conviction relief under Rule 29.15, which was denied. Resp. Ex. B at 2. Laughlin raised the issue of lack of jurisdiction in his Rule 29.15 motion. Resp. Ex. A at 9. On December 11, 2007, Laughlin filed a petition for writ of habeas corpus challenging jurisdiction with the Circuit Court of Newton County, which was dismissed on June 3, 2008. Pet. A-7. On May 26, 2009, Laughlin filed a petition for writ of habeas corpus challenging jurisdiction with the Missouri Court of Appeals for the Southern District of Missouri, which was denied on May 28, 2009. Pet. A-8.

On November 23, 2009, Laughlin filed a petition for writ of habeas corpus challenging jurisdiction with this Court. On March 2, 2010, this Court granted a writ of habeas corpus. On March 3, 2010, this Court entered its order appointing counsel for Laughlin and setting forth a briefing schedule. Respondent filed his Return on March 10, 2010.

The record reflects that the United States of America purchased the land at 101 East Hickory Street, Neosho, Missouri from Nellie Willis and Lewis Gordon Willis on April 17, 1933. Pet. A-10. The record reflects that the United States constructed a Post Office on the land at 101 East Hickory Street in 1934. Pet. A-12, A-13. The record also reflects that the United States Postal Service responded to a Freedom of Information Act request from Laughlin on April 7, 2003 and confirmed that “the facility located at 101 East Hickory Street was purchased by the Postal Service in 1933 and that we have exclusive jurisdiction over that facility.” Pet. A-21.

POINT RELIED ON

Laughlin is entitled to an order discharging him from the sentence imposed in Case No. CR493-118FX, because the trial court lacked jurisdiction, in that the alleged crimes occurred at the United States Post Office in Neosho, Missouri, a federal enclave over which federal courts have exclusive jurisdiction under Article I, section 8, clause 17 of the United States Constitution and Sections 12.010 and 12.020, RSMo.

Brown v. State, 66 S.W.3d 721 (Mo.banc 2002)

State ex rel. Green v. Moore, 131 S.W.3d 803 (Mo.banc 2004)

State ex rel. Nixon v. Jaynes, 63 S.W.3d 210 (Mo.banc 2001)

State ex rel. Zinna v. Steele, 301 S.W.3d 510 (Mo.banc 2010)

U.S. Const. Art. I, sec. 8

Sec. 12.010, RSMo.

Sec. 12.020, RSMo.

Chapter 532, RSMo.

Rule 91

ARGUMENT

Laughlin is entitled to an order discharging him from the sentence imposed in Case No. CR493-118FX, because the trial court lacked jurisdiction, in that the alleged crimes occurred at the United States Post Office in Neosho, Missouri, a federal enclave over which federal courts have exclusive jurisdiction under Article I, section 8, clause 17 of the United States Constitution and Sections 12.010 and 12.020, RSMo.

Brown v. State, 66 S.W.3d 721 (Mo.banc 2002)

State ex rel. Green v. Moore, 131 S.W.3d 803 (Mo.banc 2004)

State ex rel. Nixon v. Jaynes, 63 S.W.3d 210 (Mo.banc 2001)

State ex rel. Zinna v. Steele, 301 S.W.3d 510 (Mo.banc 2010)

U.S. Const. Art. I, sec. 8

Sec. 12.010, RSMo.

Sec. 12.020, RSMo.

Chapter 532, RSMo.

Rule 91

A. Standard of Review

This Court has jurisdiction to “issue and determine original remedial writs,” including writs of habeas corpus under Article V, section 4 of the Missouri Constitution. Further, Article I, section 12 of the Missouri Constitution provides that “the privilege of the writ of habeas corpus shall never be suspended.” Habeas corpus is governed by Rule 91 and by Chapter 532, RSMo. “The writ of habeas corpus is a common law remedy used to free persons who have been confined unlawfully.” *State ex rel. Zinna v. Steele*,

301 S.W.3d 510, 513 (Mo.banc 2010) (citing Rule 91.01(b)). The Court determines “the facial validity of confinement, which is based on the record of the proceeding that resulted in the confinement.” *Id.* (quoting *State ex rel. Nixon v. Jaynes*, 63 S.W.3d 210, 214 (Mo.banc 2001)). “The habeas court may grant relief by ordering the petitioner discharged from unlawful restraint or deny relief by permitting the petitioner to remain in custody.” *Zinna*, 301 S.W.3d at 513 (citing Rule 91.18; Rule 91.20).

B. The Trial Court Acted Without Jurisdiction Because the Federal Courts Have Exclusive Jurisdiction Over the United States Post Office in Neosho, Missouri

There is no dispute that Laughlin was charged with and convicted of first degree burglary of a building “owned by the United States Postal Service” and with first degree property damage to a safe also “owned by the United States Postal Service.” Pet. A-4. Thus, by the State’s own Information, title to the property was never in dispute.

The record reflects that the United States purchased the land at 101 E. Hickory Street, Neosho, Missouri, on April 17, 1933 from Nellie Willis and Lewis Gordon Willis. Pet. A-10. The record also reflects that the United States built a post office on the land at 101 E. Hickory Street, Neosho, Missouri in 1934, and that the United States has owned and maintained a post office at this location from 1934 to the present. Pet. A-12.

The trial court’s asserted jurisdiction over Laughlin’s charged offenses stems from Section 541.020, RSMo., which provides: “Except as otherwise provided by law, the circuit courts shall have exclusive original jurisdiction in all cases of felony, misdemeanor and infractions.” In this case, the trial court lacked jurisdiction under the

United States Constitution and Missouri statutes so the “[e]xcept as otherwise provided by law” clause was triggered.

Article I, section 8, clause 17 of the United States Constitution authorizes Congress to establish post offices and also authorizes Congress

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings.

The State of Missouri has consented to acquisition by the United States of property in Missouri for purposes of operation of a post office by virtue of Section 12.010, RSMo.:

The consent of the state of Missouri is given in accordance with the seventeenth clause, eighth section of the first article of the Constitution of the United States to the acquisition by the United States by purchase or grant of any land in this state acquired **for the purpose of establishing and maintaining post offices** (emphasis added)

In Section 12.020, RSMo., the State of Missouri has ceded exclusive jurisdiction to the United States over land purchased or acquired pursuant to Section 12.010 for as

long as the United States owns the land, reserving to the State of Missouri only the right to serve civil and criminal process within such land:

The jurisdiction of the state of Missouri in and over all land acquired as provided in section 12.010 is granted and ceded to the United States so long as the United States owns the land; except that there is reserved to the state of Missouri, unimpaired, full authority to serve and execute all process, civil and criminal, issued under the authority of the state within the lands or the buildings.

Because the land at issue was acquired by the United States prior to 1940, acceptance of jurisdiction by the United States is presumed. *United States v. Heard*, 270 F. Supp. 198, 200 (W.D. Mo. 1967) (“Since the lands were acquired by the United States prior to February 1, 1940, acceptance of the jurisdiction by the United States is presumed.”) (citing *Fort Leavenworth R.R. Co. v. Lowe*, 114 U.S. 525 (1885)).¹

Missouri federal courts have recognized their exclusive jurisdiction over federally-owned lands located within Missouri. *See Osburn v. Morrison Knudsen Corp.*, 962 F. Supp. 1206, 1208 (E.D. Mo. 1997) (“A federal enclave is territory which has been

¹ 40 U.S.C. § 3112(c) (formerly 40 U.S.C. § 255) sets out a presumption against acceptance of jurisdiction by the United States, but the statute does not apply to land acquisitions by the United States prior to 1940. There is no dispute that the United States purchased the property at issue in 1933 and constructed the post office thereon in 1934. Pet. A-10, A-12.

transferred by a state through cession or consent to the United States and over which the federal government has acquired exclusive jurisdiction.”) (granting summary judgment in favor of defendant on plaintiff’s Missouri Human Rights Act claim because claim arose based on defendant’s employment practices on the federal enclave); *Miller v. Wackenhut Servs., Inc.*, 808 F. Supp. 697, 700 (W.D. Mo. 1992) (plaintiff’s claims under Missouri statutes prohibiting employment discrimination dismissed because “federal law is the only law governing” the federal enclave “except to the extent Congress specifically authorizes state regulation.”); *Heard*, 270 F. Supp. 198, 201 (W.D. Mo. 1967) (defendant’s motion to dismiss for lack of jurisdiction denied where defendant charged with carrying concealed weapon on premises of Job Corps Center under exclusive jurisdiction of federal courts).

Other states have recognized the exclusive jurisdiction of the United States over crimes committed at United States Post Offices. *See State v. De Berry*, 32 S.E.2d 617 (N.C. 1945) (conviction for assault and battery reversed where crime allegedly occurred in federal court room of post office building over which United States had exclusive jurisdiction); *State ex rel. Jones v. Mack*, 47 P. 763 (Nev. 1897) (state court proceedings for crimes of assault with a deadly instrument and intent to inflict bodily injury annulled where United States had exclusive jurisdiction over post office and courthouse where crimes allegedly committed).

C. Grant of Habeas Relief is Proper to Remedy Jurisdictional Defects

“Relief in habeas corpus is available ‘when a person is held in detention in violation of the constitution or laws of the state or federal government.’” *Zinna*, 301 S.W.3d at 516 (quoting *Jaynes*, 63 S.W.3d at 214). In Missouri, the doctrine of habeas corpus is governed by Rule 91 of the Missouri Rules of Civil Procedure, the Missouri Constitution (Article I, section 12), and Section 532.010 et seq. RSMo. Although Rule 29.15 of the Missouri Rules of Civil Procedure is “designed to provide a ‘single, unitary, post-conviction remedy, to be used in place of other remedies,’ including the writ of habeas corpus,” subsequent habeas relief is not barred in certain cases despite failure to timely raise a claim under Rule 29.15. *Jaynes*, 63 S.W.3d at 214 (quoting *Wiglesworth v. Wyrick*, 531 S.W.2d 713, 715-16 (Mo.banc 1976)) (emphasis omitted). A petitioner’s claim for subsequent habeas relief is not barred when the petitioner can demonstrate:

(1) a claim of actual innocence or (2) **a jurisdictional defect** or (3)(a) that the procedural defect was caused by something external to the defense—that is, a cause for which the defense is not responsible—and (b) prejudice resulted from the underlying error that worked to the petitioner’s actual and substantial disadvantage.

Zinna, 301 S.W.3d at 516-17 (quoting *Brown v. State*, 66 S.W.3d 721, 731 (Mo.banc 2002)) (emphasis added). A “jurisdictional defect” is lack of personal jurisdiction or subject matter jurisdiction in the trial court. *Zinna*, 301 S.W.3d at 517.

Laughlin’s request for habeas corpus relief is proper because he has alleged a jurisdictional defect in the trial court, one of the errors explicitly permitted to be

remedied by way of habeas corpus regardless of whether raised by Rule 29.15 motion. Further, it is fundamental that jurisdictional defects are not waived, and cannot be waived, *Merriweather v. Grandison*, 904 S.W.2d 485, 489 (Mo.App. 1995), and that jurisdictional defects may be raised at any time, *State ex rel. Green v. Moore*, 131 S.W.3d 803, 805 n.6 (Mo.banc 2004) (quoting *Kansas City v. Stricklin*, 428 S.W.2d 721, 724-25 (Mo.banc 1968)) (“jurisdiction of the subject matter . . . in either a civil or criminal action may be raised at any stage of the proceedings, even after a plea of guilty, and for the first time in the appellate court”). *See also* Section 532.430(1), RSMo. (authorizing habeas corpus relief “[w]here the jurisdiction of such court or officer has been exceeded, either as to matter, place, sum or person.”)

The State argues in its suggestions in opposition to the petition for writ and again in its Return that Laughlin should not be permitted to bring this “successive claim” under *State ex rel. Simmons v. White*, 866 S.W.2d 443, 446 (Mo. 1993), since he argued lack of jurisdiction in his Rule 29.15 motion, and his claim was denied by the Newton County Circuit Court. In fact, *Simmons* acknowledges that habeas relief is available “to present jurisdictional issues” regardless of whether those issues were raised on appeal or by post-conviction motion. *Id.* at 445 n.3, 446-47 (finding petitioner not entitled to habeas relief where petition for writ did not allege jurisdictional issues and where failure to raise sentencing error was a “calculated, strategic decision” rather than a circumstance rising to the level of manifest injustice). *See also Jaynes*, 63 S.W.3d at 217 (“Successive *habeas corpus* petitions are, as such, not barred”) (italics in original).

Further, this is not a case where relief could have been requested under Rule 29.15 and was not. As the State acknowledges, Laughlin raised lacked of jurisdiction in his Rule 29.15 motion. Return, Resp. Ex. A. Laughlin should not be denied habeas relief simply because both the trial court and the lower court of appeals improperly rejected Laughlin's jurisdictional claim. In fact, the need for habeas relief is even more compelling here, where Laughlin has exhausted every avenue available to remedy the jurisdictional defect.

The State also argues in its supplemental suggestions in opposition and in its Return that the trial court had jurisdiction under §§ 541.191.1(1) and 541.191.1(3), RSMo., which provide as follows:

541.191. 1. This state has jurisdiction over an offense that a person commits by his own conduct or the conduct of another for which such person is legally accountable if:

(1) Conduct constituting any element of the offense or a result of such conduct occurs within this state; or

(3) The conduct within this state constitutes an attempt, solicitation, conspiracy or facilitation to commit or establishes criminal accountability for the commission of an offense in another jurisdiction that is also an offense under the law of this state....

The State's argument ignores Sections 12.010 and 12.020, RSMo., by which Missouri has ceded exclusive jurisdiction over the United States Post Office located in

Neosho to the United States. *See Coffman v. Cleveland Wrecking Co.*, 24 F. Supp. 581, 582 (W.D. Mo. 1938) (“The question does not seem difficult. Beyond possibility of controversy the site where these causes of action arose was subject to the exclusive jurisdiction of the United States when they arose. With the acquisition of that site by the United States the laws of Missouri, not inconsistent with laws of the United States, continued in force, but they became, at the moment of acquisition, laws of the United States.”). *See also* 1 Mo. Op. Att’y Gen. 23 (1953) (Sections 12.010 and 12.020 divest State of Missouri of jurisdiction over violations of criminal law occurring on land occupied by Public Health Service Hospital). Nothing in Section 541.191.1 permits the State of Missouri to usurp the exclusive jurisdiction of the United States over the situs where the crime was committed, the United States Post Office in Neosho, Missouri. Laughlin was charged with burglarizing the post office and with damaging a safe therein. The State cites no authority for its argument that Laughlin’s passage through Missouri to enter the post office and his arrest by officers located outside of the post office somehow gives Missouri state courts jurisdiction over the charged crimes.

Laughlin’s request for habeas relief is also proper under the “cause and prejudice” exception for grant of habeas relief. *Brown*, 66 S.W.3d at 731. The “cause” element requires Petitioner to show that “some objective factor external to the defense impeded counsel’s efforts to comply with the State’s procedural rule.” *Jaynes*, 63 S.W.3d at 215 (quoting *Murray v. Carrier*, 477 U.S. 478, 488 (1986)). The “prejudice” element requires Petitioner to show that the asserted error “worked to his *actual* and substantial disadvantage, infecting his entire trial with error of constitutional dimensions.” *Jaynes*,

63 S.W.3d at 215 (quoting *United States v. Frady*, 456 U.S. 152, 170 (1982) (italics in original)). Trial counsel error has been found to satisfy the cause and prejudice standard for habeas relief. See *State ex rel. Meier v. Stubblefield*, 97 S.W.3d 476 (Mo.banc 2003) (finding cause and prejudice to permit resentencing when Petitioner's lawyer failed to file notice of appeal and Petitioner did not learn of this fact until after the time had run for post-conviction relief).

Here, Laughlin's appointed trial counsel failed to raise lack of jurisdiction as a defense. Trial counsel's failure unquestionably prejudiced Laughlin in that he was sentenced to imprisonment for a consecutive term of 40 years by a court lacking jurisdiction over the charged offenses. When Laughlin himself discovered that the trial court lacked jurisdiction, he raised the jurisdictional issue in multiple pleadings, including by way of Rule 29.15 motion and petitions for writ of habeas corpus, all of which were denied by the trial court and the lower court of appeals.

The trial court lacked jurisdiction over Laughlin because the alleged crimes occurred at the United States Post Office in Neosho, Missouri, over which the federal courts have exclusive jurisdiction pursuant to Sections 12.010 and 12.020, RSMo. Laughlin is entitled to a writ of habeas corpus discharging him from the sentence imposed by the Newton County Circuit Court because the court had no jurisdiction to try, convict, or sentence Laughlin.

CONCLUSION

For the reasons stated herein, and in his underlying petition for writ of habeas corpus, Dwight Laughlin, petitioner, prays that the Court discharge him from the sentence imposed in Case No. CR493-118FX; and for such other and further relief as the Court deems just.

Respectfully submitted,

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**CERTIFICATE OF COMPLIANCE WITH
RULE 84.06 AND CERTIFICATE OF SERVICE**

Pursuant to Rule 84.06(c), counsel for Petitioner certifies that this brief includes the information required by Rule 55.03 and complies with the limitations contained in Rule 84.06(b). There are 3,632 words in this brief. Counsel for Petitioner relied on the word count of her word processing system in making this certification.

Pursuant to Rule 84.06(g), counsel for Petitioner certifies that the disk filed herewith has been scanned for viruses and is virus-free.

Further, counsel for Petitioner states that Petitioner's Brief and Appendix in the within cause were by her caused to be served, either by hand delivery, by ordinary mail, postage prepaid, or by overnight shipping service, in the following stated number of copies, addressed to the following named persons at the addresses shown, all on this ____ day of April, 2010:

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Subscribed and sworn to before me this ____ day of April, 2010.

Notary Public

My commission expires: