

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Greenville County

Honorable Letitia H. Verdin Circuit Court Judge

Appellate Case NO. 2020-001421

THE STATE

Respondent

VS.

ROBERT WATKINS

Appellant

Appellant's final Brief

The numbers that appear in Appellants
record on appeal at the bottom of
each page in the middle of each

page, from page 5 to 149
is used in my brief or this final Brief
As the number for the record on appeal

I am referring to Beginning from page
5 which is the actual Motion I am appealing

to page 149 Judge Verdin's Oct 5, 2020
Order denying my Motion re Exhibit #8

Robert Watkins 243843

P3B221

P. C. F.

430 Oakleawn Rd

Pelzer SC 29669

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STATEMENT OF ISSUE ON APPEAL

Did The Honorable Judge Letitia H. Verdin abuse her discretion in denying Appellant Roose litigant Robert M. Watkins Independent Motion to Vacate September 24 2008 Conviction and Sentence on grounds that the indictment is void and the Court lacked personal and subject Matter jurisdiction to Convict and Sentence pro-se litigant Under an void indictment and Due process and equal Protection Violation of S.C Const article 1 section 3, and U.S.C.A 5th 14th; and on grounds, ?

1. Trial Judge constructive amendment to Indictment 2002-GS 23-1063 created a fatal Variance ?
2. Applicant Robert Watkins was convicted of an uncharged offense ?
3. Trial Judge ~~change to jury~~ Broaden Constructive Amendment to Indictment 2002-GS 23-1063 Broaden the bases for Conviction to include predicate offense not alleged in the indictment. citing U.S. v Randall, 171 F3d. 200 4th (Cir 1999) impermissible amendment because government broaden bases of Conviction to include predicate offense not alleged in Indictment and

There was not a true bill of Indictment or waiver of presentment before the jury was sworn nor was Appellant Watkins put on Notice of such charge to the jury. USCA 5th 14th, SC Const article I, § 3
U.S. v Cotton 535 U.S. 629 (2002)? ~~Footnote~~ Exhibit #2
ROA page 33 line 8 through ROA p 35 line 1, ROA page 128 line 21 through ROA pg. ~~130~~ line 23 ?

4. That trial court lacked subject matter jurisdiction to convict Appellant Watkins based on Judge Patterson charge to the jury. Id in Exhibit #2 trial transcript page 509 line 21 through page 511 line 13
ROA page 128, 129, 130. When there was no true bill of Indictment returned by the Grand Jurors of Greenville County prior to the jury being sworn.
SC Const article I § 11, S.C. Const. article V § 11.?

5. That Indictment 2002-GS23-1063 is void pursuant to S.C. 1976 Code § 14-9-210, because it was obtained by an illegal convened grand jury, of the county Court at a Court of General Sessions outside the terms of Court of General Sessions of the County where the crime allegedly occurred.?

STATEMENT OF THE CASE

Appellant was indicted at the February 2002 term of the County Grand Jury For Pickens county at a court of General Sessions. ~~Rp 27-28~~ for armed Robbery and Possession of a Weapon during the commission of a violent Crime R.p 27, 28.

The State brought the case to trial on October 23-25 2002.

Appellant was convicted and sentenced to 30 years for armed Robbery and 5 years to run concurrent for the weapon charge R.p. 29, 30. Appellant appeal that conviction, the appeal was denied pursuant to Anders v California.

~~Appellant~~ Appellant then filed an application for Post conviction relief case 2004 CP-23-7064, which was denied after an evidentiary hearing was held on April 15, 2005. Appellant appealed to the S.C Supreme Court: Watkins conviction was reversed and his case remand for a new trial. Watkins v State, 2008-mv-001 (S.C. Sup. Ct. Filed January 14, 2008).

Appellant was retried in September 2008. He was again convicted as charged in indictment 2008 GS-23-1063 R.p. 27, 28. and the Honorable Larry R. Patterson sentenced him to

25 years for armed Robbery and 5 years to run consecutive for Poss of a wpn dur the commission of a violent crime.

R.p 29, 30. Appellant appealed the ~~conv~~ September 24, 2008 Conviction, the S.C Court of Appeal reversed the conviction and remand for a new trial. State v Watkins, up 2011-UP 091

(S.C. Ct. App. filed March 8, 2011) After a Petition by the State, the South Carolina Supreme Court reversed the decision of the S.C. Court of Appeals during an oral argument and affirmed Applicant Watkins' convictions and sentences. State v. Watkins 406 S.C. 360, 752 S.E.2d

261 (2013). On June 10, 2013 ~~Appellate~~ Appellant filed a Petition for Writ of Habeas Corpus in the United States District Court for the District of South Carolina. On June 26, 2013, the court dismissed the petition without prejudice because state court proceedings were ongoing.

In January 2014 Appellant subsequently filed an application for Post Conviction Relief raising numerous trial and Appellate issues, as well as several constitutional issues. After a hearing on April 22, 2015, the circuit Court of Common Pleas Greenville County issued an Order of dismissal on October 2, 2015, case number 2014-CP-23-0589 denying post conviction relief. On October 5, 2017, this Court denied Appellant's Petition for Writ of Certiorari after considering of the entire appendix pursuant to Johnson v. State, 294 S.C. 320, 364 S.E.2d 201 (1988).

A petition for rehearing was ~~denied~~ also denied while the appeal from the denial of his PCR application was pending. Appellant filed a Motion for a new trial on October 2, 2015. The motion was captioned:

"Motion for a New Trial Pursuant to § 17-23-110, Brady v Maryland 323 U.S. 83 (1963) and SCRCrim P. Rule 29(b), After on Newly discovered Evidence. The Honorable Judge Lehiha H. Varden only address the Motion for a New Trial pursuant to SCRCrim P. Rule 29(b) after on Newly discovered evidence But failed to address the Brady claim. The Motion was denied and dismissed on April 26, 2016. This Court affirmed the denial on March 7, 2018. State v Watkins, op. No. 2018-UP-103 (S.C. Ct App filed March 7, 2018.)

While the appeal on this Motion for a New Trial was pending, Appellant filed a Motion to Vacate Sentence on April 28, 2017.

This was denied by Order on May 23, 2017. After confusion on Appeal and a remand to the circuit court for clarification, on November 16, 2017, the Honorable Lehiha H. Varden issued an Order clarifying that her May 23, 2017 Order denied his motion to vacate sentence. The appeal from this Order was dismissed as untimely by this Court on June 12, 2020.

On December 20, 2018, Appellant filed his second Petition for Writ of Habeas Corpus in the District Court.

On September 30, 2019, United States Magistrate Judge Paige J. Gossett filed a report and recommendation

identifying the claims raised and recommending Respondent's Motion for summary judgment be granted. On November

18th 2019, Senior United States District Judge Cameron Mc Gowan Currie issued an order adopting the report, granting Respondent's motion for summary judgment, and dismissing the petition.

On February 12 2020, Appellant filed a second application for post-conviction relief, Re 2020-CP 23-00908. He originally asserted a violation of Brady v Maryland 373 US 83 (1963). On September 23 2020 Appellant amended his application to allege other claims related to the recall of the remittitur in his direct appeal from the 2008 conviction. This PCR is still pending with the circuit court. On September 29, 2020, Appellant filed a new motion entitled: Pro-se litigant Robert M Watkins Independent Motion to Vacate September 24 2008 Conviction and Sentence on grounds that the indictment is void and the court lacked personal and subject matter jurisdiction to convict and sentence pro-se litigant under an void indictment, and Due process and equal Protection Violation of S.C Const article 1 ~~section~~ section 3, U.S.C.A. 5th, 14th, making various allegations regarding the indictment against him, the timing of the grand jury consideration, subject matter jurisdiction, and other claims. The Motion was denied by the Honorable Patricia H Verdin in an Order Denying Defendant's Motion on October 5th 2020. without giving reason why pursuant to

freedom law. Watkins now appeals that ruling.

STANDARD OF REVIEW.

In criminal cases, appellate courts review errors of law and are bound by the trial court's factual findings unless

they are clearly erroneous. State v Buccus

367 S.C. 41, 48, 625 S.E. 2d 216, 220 (2006) (also

The appellate court reviews a denial of a new trial motion for an abuse of discretion.

Kunst, 424 S.C. at 38, 817 S.E. 2d at 302 (quoting Duncan

v. Hampton City County School District No 2 335 S.C.

535, 547, 517 S.E. 2d 449, 455 (Ct App 1999).

Argument

The Circuit Court Judge Lehtia H. Verdin abused her discretion in denying Appellant's Motion for a New Trial.

On September 29 2020 Appellant Robert M. Watkins filed an Independent Motion entitled: Pro-se litigant Robert M. Watkins Independent Motion to vacate September 24 2008 Conviction and Sentence on grounds the Indictment is void and the court lacked personal and Subject Matter jurisdiction to Convict and Sentence pro-se litigant Under an void indictment and Due process and equal Protection violation of S.C. Const article 1 section 3, U.S.C.A. 5th 14th

~~On~~ In that Motion, Appellant argued as follows...
Argument - Due Process violation of S.C. Constitution Article 1 section 3 and 5th 14th Amendment of the United States Constitution. On February 19th 2002 The Grand Jurors of Greenville County returned an Bill of Indictment 2002-65-231063 for count one armed Robbery and count two Possession of a weapon during the commission of or a Attempt to commit a violent Crime. see Id as Exhibit (# 1) R.p 23 24.

In reference to armed Robbery, the indictment alleged that ROBERT MAX WATKINS did in Greenville County, on or about the 19th day of December 2001, while armed with a deadly weapon, or while alleging, either by action or words, or both he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon did by use of force, threats or intimidation, take and

carry away the property of another to wit: U.S. currency from chuckie cheese. This is in violation of § 16-11-330(A) of the South Carolina Code of laws (1976) as amended.

see Id in R.p. 23, 24. The 13th Judicial Circuit Solicitor Office of Greenville County, assistant Solicitor Lucas Marchant pursuant to S.C. 1976 Code of law § 1-7-330

Scheduled Indictment # 2002-GS-23-1063. Id as exhibit

#1 R.p. 23, 24 on the general sessions court docket of Greenville County for and on September 22, 2008 for trial before

the Honorable Judge Larry R. Patterson, representing Pro-se litigant Robert Max Watkins were Stephen John Henry of the Defender's Corporation of Greenville County Inc., of whom Judge Larry R. Patterson appointed on May 30th 2008

During a Pretrial Motion. due to Watkins indigency.

On September 22, 2008 the day of trial Pro-se litigant Robert Max Watkins informed his counsel Mr. Stephen John Henry that he had never been arraigned on Indictment 2002-GS-23-1063 in which his counsel Mr. Henry informed Judge Larry R. Patterson that Pro-se litigant Robert Max Watkins had never had an arraignment on Indictment

2002-GS-23-1063, in which Judge Larry R. Patterson informed Mr. Watkins that he was still under oath, and arraigned Mr. Watkins in reference to Indictment # 2002-GS-23-1063 Id in Exhibit (#1) R.p. 23 24. as follows:

The Court: and Mr. Watkins in this indictment you are charged within Greenville County, on the 19th day of December of 2001, while armed with a deadly weapon, either by action, words, or both, you -- or using a representation of a deadly weapon, or an object which a person presented during the commission of a robbery reasonably believed to be a deadly weapon, that you used force, threats, or intimidation to take away the property, U.S. currency from Chuck-E-Cheese in violation of section 16-11-330 of the South Carolina Code of laws. You're charged with armed robbery. Do you understand that charge?

Mr. Watkins: Yes Sir. The Court: Mr. Watkins, how do you plead to that charge. Mr. Watkins: not guilty. The Court: and how do you want to be tried? Mr. Watkins:

A jury. see Id in exhibit #2 trial transcript page 47 line 8 through page 49 line 1. R.p. 33 line 8 through R.p. 35 line 1. Putting Appellant Watkins on Notice of the charge he must be prepared to defend against. In which Mr. Watkins plead not guilty to, because Chuckie Cheese as named in the Indictment 2002-GS-23-1063 Id as exhibit #1 R.p. 23, 24 is not a person but a company, and a company can't testify.. During the jury trial Assistant Solicitor Lucas Marchant through state witness Marcus Scarabino, introduced into evidence that Chuck-E-Cheese is a company, see

Id in exhibit #2 trial transcript page 165 line 20, R.p. 41 line 20.
After hearing the testimony introduced into evidence by
Assistant Solicitor Lucas Marchant, through State Witness
Marcus Scarbino. Id in exhibit (#2) trial transcript page 164
line 20 through page 194 line 3. ~~page~~ R.p. 40 line 20 through
R.p. 20 line 25, and State Witness Jimmy Skelton
Id in exhibit #2. R.p. 71 line 4 through R.p. 92 line 21, and
State Witness Jeannie Pineda Id in exhibit (#2) ~~trial~~
~~transcript~~. ~~R.p. 95~~ R.p. 95 through R.p. 95 line 7
through R.p. 127 line 15. Assistant Solicitor Lucas
Marchant proved a different offense or charge, than the
one charged in Indictment 2002-65-23-1063 Id in Exhibit
(#1) R.p. 23 24, then that returned as a true bill of
Indictment by the Grand Jury for Greenville County on
February 22, 2002. Judge Larry R. Patterson based on the
evidence introduced into evidence by assistant Solicitor Lucas
Marchant created a fatal variance that deprived Pro-se
litigant (Appellant) Robert Merv Watkins of a fair Notice
of the charges and exposed him to the risk of double
Jeopardy, in which is grounds for reversing a conviction.
Judge Patterson in his charge to the jury would alter
the indictment 2002-65-23-1063 as follows: Now
ladies and gentlemen in this case the defendant,

Robert May Watkins, is charged with armed robbery, which he has pled not guilty to. The allegations are that he in Greenville County, on or about the 19th day of December of 2001, while armed with a deadly weapon, either by action, or words, or both, and representing the use of that weapon, that he by force, threats, or intimidation took property that Belonged to Chuck-E cheese in violation of the laws of this state, namely United States Currency. They allege that was armed robbery. The State must prove each and every element that they've alleged beyond a reasonable doubt. see Id in Exhibit #2. R.p. 128 line 21 through R.p. 129 line 7.

Indictment 2002-GS-23-1063 Id in R.p. 23, 24 as Exhibit #1 does not allege or charge Mr. Watkins with " While armed with a deadly weapon either by action, or words, or both, and representing the use of that weapon, that he by force, threats, or intimidation took property that belonged to Chuck-E-cheese in violation of the laws of this state, namely United States Currency. Judge Patterson further constructively amended Indictment 2002-GS-23-1063 Id as Exhibit #1 R.p. 23, 24, in his charge to the jury that, Now in this case in order to prove this offense the state

beyond a reasonable doubt that the defendant took personal property from the person or presence of another person. Property is in the presence of a person if it is within that person's reach, his inspection, his or her observation, or control, so that that person could, if not overcome, with violence or prevented by fear, keep possession of that property. The state must also prove beyond a reasonable doubt that the defendant carried the property away, intending to permanently deprive the owner of that property and keep the property for his own use. Now, the taking and carrying away of the property must have been done with violence, by putting the owner of the property in fear of violence and that must be proven beyond a reasonable doubt that the defendant was armed with a deadly weapon during the robbery. A deadly weapon is any article, instrument, or substance which is likely to cause death or great bodily harm whether an instrument has been used as a deadly weapon depends on the facts and circumstances of each case and you have to be -- you are the sole finders of facts and circumstances. Under our law examples of deadly weapons are a pistol, shotgun, knife and thing of that nature. see *Id* in Exhibit #2, R.p. 129

line 13 through R.p. 130 line 13. Indictment 2002-GS-23-1063
Id in R.p. 23 24. does not allege or charge Mr
Watkins with what Judge Larry R. Patterson charge the
jury with: Id in Exhibit # 2 R.p. 128 line 21 through
R.p. 130 line 13. A sufficient indictment must do more
then merely recite the elements of the offense charged.
The indictment must also contain sufficient factual
allegations to permit the accused Mr Watkins to know
whether he may Plead an acquittal or conviction thereon.
Fairness and due Process requires that a criminal
defendant receive sufficient notice of the charges
charges against him to prepare a defense. State v
Baker, 411 S.C. 583, 796 S.E. 2d. 860. Judge
Larry R. Patterson constructively amendment to
Indictment 2002-GS-23-1063 Id as Exhibit # 1 R.p. 23 24,
R.p. 128 line 21 through R.p. 130 line 16. Deprived Mr.
Watkins of his substantial right to be tried only on
charges presented in the indictment returned by a
grand jury. A constructive amendment also known as
a fatal variance happened when Assistant Solicitor
Lucas Marchant through his presentation of evidence
through State witnesses Scavabino, Jimmy Sketton,
and Jeannie Pirede Id. and the court; Judge Larry
R Patterson instruction to the jury broaden the

bases for conviction beyond those charged in the indictment 2002-GS-23-1063 Id as Exhibit #1 R.p. 23-24.

A constructive amendment changes the charge while evidence remains the same, a variance changes the evidence while the charge remains the same. Specially, a constructive amendment of an indictment which violates the rule prohibiting the broadening of an indictment through amendment except by the grand jury, occurs when the charging terms of the indictment are altered, either literally or in effect, by the prosecutor or a court ~~at the~~ after the grand jury has last passed upon them, while a variance occurs when the charging terms of the indictment are left unaltered but the evidence offered at trial proves facts materially different from those alleged in the indictment.

In reference to Indictment 2002-GS-23-1063 Id as Exhibit #1 R.p. 23-24. Assistant Solicitor Lucas Marchant offered into evidence through State witnesses

Scarbino, Jimmy Skelton, and Jeannie Pineda Id in Exhibit #2 R.p. 40 line 19 through R.p. 60 line 1, R.p. 60 line 2 through R.p. 71 line 4 through R.p. 84 line 1, R.p. 95 line 7 through R.p. 111 line 4, that proves facts materially different from those alleged in Indictment 2002-GS-23-1063 Id as Exhibit #1 R.p. 23-24

violation of the 5th, 14th Amendment Grand Jury clause
No person is named in Indictment 2002-GS23-1063.
unless the grand jury construed chuckie cheese as
a person; and no where in the indictment 2002-GS-23
-1063 Id as Exhibit #1. R.p. ~~23, 24~~ 23, 24 is Mr Watkins
charged with the material fact that while armed
with a deadly weapon, either by action or words, or
both, and representing the use of that weapon, that he
by force, threats or intimidation took property that
Belonged to chuckie - cheese as Judge Patterson
charged the jury Id in exhibit 2 R.p. 128 line 21
through R.p. 130 line 13, charged a different offense
than that alleged in the indictment Id as Exhibit #1.)
R.p. 23, 24, resulting in Mr. Watkins being convicted
of an uncharged, and in which he was never provided
Notice of, violating his due process and equal
Protection of the Grand Jury clause of S.C. Const.
article 1 Section 3, U.S.C.A. 5th, 14th, As well as
S.C. Constitution article 1 section 11 in which
no person shall be held to answer for any crime
where the punishment exceeds a fine of two hundred
dollars or imprisonment for (30) thirty days unless
on a present or indictment of a grand jury of the

county where the crime shall have been committed.
S.C. 1976 Code of law § 17-19-10. No person shall
be held to answer in any court for an alleged
crime or offense, unless upon indictment by a grand
jury, except in the following cases.

(1) when prosecution by information is expressly authorized
by statute

(2) In proceeding before ~~court~~ a police Court or
Magistrate and

(3) In proceeding before Court Martial.

There were no true bill of Indictment by a grand jury of
Greenville County charging Mr. Watkins with the charge
that Judge Larry R. Patterson charged the jury with.

Id in Exhibit #2 R.p. 128 line 21 through R.p. 130 line 13

In which the petit jury found Mr. Watkins guilty of
on September 24, 2008 in reference to Indictment

2002-GS-23-1063 Id as Exhibit #1 R.p. 23-24.

and sentenced Steel R.p. 25, 26. ~~R.p.~~ R.p. 136 line 21

through R.p. 138 line 3, R.p. 142 line 8-12.

The Executive branch of the State Government of
the State of South Carolina Greenville County 13th Judicial
Circuit Solicitor office prepares the charging document,
informal Indictment in which it alleges a citizen
has violated the laws of this state, in reference to

A felony or offense that exceeds a fine of two hundred dollars or exceeds 30 days imprisonment. A person (citizens) may be held to answer unless on a presentment or indictment of a grand jury of the county in which the crime has allegedly been committed. Due process clause of the 5th, 14th Amendment requires that probable cause be established by a grand jury of the county where the crime has been committed, in which the grand jury of that county will return a true bill of indictment. S.C. Const. article 1 section 11. Judge Larry R. Patterson altering, & constructive amendment, that broaden the charging terms of Indictment #2002-GS-23-1063 is an unconstitutional violation of S.C. Constitution Article 1 section 8, Separation of Powers. He acted as the executive branch, in his charge to the jury. Tel in Exhibit #2 R.p. 128 line 21 through R.p. 130 line 13, in which pursuant to S.C. Const article 1 § 11 and S.C. Const article V § 11 S.C. 1926 Code Ann § 17-19-10 Mr. Watkins should not have been held to answer for an uncharged offense, for an offense Judge Patterson charged the jury with Violation of S.C. Const article 1 section 8 Separation of Powers, in which was not returned by a grand jury of Greenville County, in which the petit jury found him guilty of Indictment 2002-GS-23-1063 But found

But found guilty of an uncharged offense invasion of S.C. Constitution Article I section 11 and S.C. Const article I section 3 and U.S.C.A. 14th of the Due process clause in which Mr Watkins was never put on Notice of the charge Judge Patterson charged the jury with Id in Exhibit (2) R.p 128 line 21 through R.p 130 line 13, in which pursuant to S.C. Const. article I 8 11 and S.C. 1976 Code Ann § 17-19-10 Mr. Watkins should not have been held to answer for an uncharged offense. or for an offense Judge Patterson charged the jury with Invasion of S.C. Const. article I section 8, Separation of Powers, in which was not return by a grand jury of Greenville County, in which the petit jury found him guilty of

Lack of subject Matter Jurisdiction

The trial Court lacked subject Matter jurisdiction to convict Mr Watkins upon the charge in which Judge Patterson charged the jury with Id in exhibit #2 R.p 128 line 21 through R.p 130 line 13. Although the state used indictment 2002-GS-23-1063 to invest the General Sessions Court with its criminal trial Court Jurisdiction pursuant to S.C. Constitution article V 8 11 Id as exhibit (# 1) R.p 23-24. General sessions Court was divested of

its subject matter jurisdiction to convict Mr. Watkins, under Indictment 2002-GS-23-1063 Id as exhibit #1 R.p. 23, 24 when Judge Larry R. Patterson constructively amended Indictment #2002-GS-23-1063 in his charge to the jury that broaden the bases of conviction to include predicate offense not alleged in the indictment. see Id in exhibit #2, R.p. 128 line 21 through R.p. 130 line 13, citing U.S. v Randall 171 F3d. 145, 210 (4th Cir. 1999) im. permissible amendment because government broaden bases of conviction to include predicated offense not alleged in indictment, and there was not true bill of indictment or waiver of presentment before the jury was sworn, nor was Mr. Watkins put on Notice of such charge to the jury. Id in exhibit #2. R.p. 128 line 21 through R.p. ~~129~~ 130 line 13, in which he was found guilty of violation of U.S.C.A. 5th 14th, S.C. Constitution article 1 section 3, U.S. v Cotton, 535 U.S. 629 (2002) (Subject Matter jurisdiction claim preserved though not raised at trial. Lack of subject matter jurisdiction can be raised at any time. Brown v State, 343 S.E. 540 S.E.2d 846, 848-49 (2001). The trial Court lacked Subject Matter jurisdiction to convict ~~Watkins~~ based on Judge Larry R. Patterson charge to the jury. Id in exhibit #2 R.p. 129 line 21 through R.p. 130 line 13

When there was no true bill of Indictment return by the Grand Jurors of Greenville County prior to the jury being sworn.

Id in exhibit #2 R.p. 129 line 21 through R.p. 130 line 13.

Once the trial Judge charged the jury with that charge,

The court was divested of its jurisdiction over Indictment

" 2012-65-23-1063 to convict and sentence Mr. Watkins

for an uncharged offense. Absent an True bill of Indictment

stating sufficiently the case of action in which a citizen

is being charged with or ~~or~~ a waiver of presentment,

the General Sessions Court can not obtain its criminal

jurisdiction under S.C Const article V § 11 unless an True bill

of Indictment showing a statutory violation of a criminal

offense has been alleged and committed based on probable

cause determination of a Grand jury of the county where crime

has been committed or such waiver of presentment.

S.C Const. article I section 11. Absent a filing of an

Indictment or waiver of presentment, stating statutory

criminal offense, the Court of General Sessions

would lack jurisdiction to entertain a criminal prosecution

under S.C Const article V § 11, the Indictment is the cause of

action in which a trial Court receives its authority

to try and convict and sentence a citizen. I agree

with Gentry that Indictment has nothing to do with

the General session Court Jurisdiction, when the subject

matter is based on the nature of the offense alleged in the indictment to determine if the General Sessions Circuit Court has jurisdiction over the subject matter alleged in the indictment, to try, convict and sentence an accused (defendant). The Indictment is the cause of action or contains the cause of action in which the accused is brought before the court to be put on notice, to enter a plea of guilty or not guilty and to proceed to trial. No Indictment stating a cause of action the circuit Court under S.C. Const. article V § 4 has not been invested with its criminal, If the indictment or waiver of presentment, does not determine if the circuit Court have subject Matter Jurisdiction, then what is the circuit Court exercising its criminal jurisdiction over to try and convict and sentence an accused? The ruling in State v Gentry 610 S.E2d 494 that an Indictment has nothing to do with the subject Matter Jurisdiction of circuit Court pursuant to S.C. Const. article V § 4 is wrong. It is shocking to the universal sense of justice, if the State of South Carolina Greenville County, Circuit Solicitors office can use Indictment 2002-GS 23-1063 to give the 13th Judicial Circuit Court of General Sessions of Greenville County personal and subject Matter Jurisdiction pursuant to S.C. Const. article 1 section 11 and S.C. Const. article V, § 11

to hold Mr Watkins to answer for and deprive him of his
Due process and equal Protection of right to liberty and
life, then present evidence that proves a different
charge, in which the trial Judge heard, and in his
charge to the jury impermissibly ~~and~~ constructively
broaden the Bases of conviction to include predicated
offense not alleged in the Indictment 2002-65-23-1063
see Id in exhibit #2 R.p. 128 line 21 through R.p. 130 line 13
resulting in Mr Watkins being convicted of an
uncharged offense. Probable cause was not never
established for this offense charged to the jury. How
can Mr Watkins on the same day of his arraignment
exercise his compulsory process in obtaining
witnesses, to study the rules of evidence, all criminal
procedures so he can make proper objections and preserve
them for review by the S.C. Court. of Appeals? How can
Mr Watkins prepare a defense for a charge, that he
was not put on Notice of? Id in exhibit #2
R.p. 128 line 21 through R.p. 130 line 13. when he didn't
become aware of the charges until the trial Judge Larry
R. Patterson charged the jury after all the evidence had been
introduced into evidence and the State closed its case.
Id in exhibit #2 R.p. 128 line 21 through R.p. 130 line 13.

Indictment 2002-GS-23-1063 is void and the Court of General Sessions Greenville County lacked subject matter jurisdiction to convict and Sentence Applicant Watkins on an Indictment that was obtained by a county court grand jury pursuant to S.C. 1976 Code of law §14-9-210 as Id in exhibit #3 R.p. 144 at a Court of General Sessions Greenville County on February 19th 2002 which was outside the terms of Court of General Sessions Greenville County, but during the term of Court of Pickens County pursuant to S.C. 1976 Code of law §14-5-790 (1)(a)(2) see Id in exhibit #4 R.p. 145. Back on October 16th 2001 Judge John C. Few issued an Order for the illegal convening of the county grand jurors for Greenville to convene at a Court of General Sessions on February 19th 2002 see Id as exhibit #5 R.p. 146, in which was outside the terms of Court of General Sessions Greenville County pursuant to S.C. 1976 Code ~~Ann~~ of laws §14-5-290 (1)(a) but during the terms of Court of General Sessions Pickens County in which on February 19th 2002 Indictment 2002-GS-23-1063 through presiding Judge John C. Few, presented to the county grand jurors of Greenville at a Court of General Sessions Indictment 2002-GS-23-1063 in which on February 19th 2002 the grand foreman presented to Judge John C. Few the Grand jury findings in a

presentment, in which Judge John C. Few accepted and signed off on and gave to the Clerk of Court of General Sessions Court for filing. see Id as exhibit (6) The presentment; Indictment 2002-GS-23-1063 was included in Indictments 2002-GS-23-848 Through 1201. R.p. 147.

S.C. 1976 Code of law § 14-9-210 is abolished pursuant to S.C. 1976 Code of law § 22-3-510. Id. Exhibit (8) R.p. 148.

The grand jury of Greenville County that convened on February 19th 2002 pursuant to Judge John C. Few ~~Order~~ October 16, 2001 order Id as exhibit (5) R.p. 146. Convened the county grand jury of Greenville County that has been abolished and in which was illegal, at a court of General Sessions outside the terms of Court of General Sessions Greenville County where the crime had allegedly occurred but during the terms of Pickens County Court of General Sessions; The General Session Court of Greenville County lacked personal and subject matter jurisdiction to try and convict and sentence Pro-se litigant Robert M. Watkins using an Indictment that were issued by a County Grand jury pursuant to S.C. 1976 Code of law § 14-9-210 which has been abolished, that convened and was empaneled at a Court of General Sessions during the terms of Court of General Sessions Pickens County on February 19 2002

pursuant to S.C. 1976 Code of law § 14-5-790 (2) outside
the terms of Court of General Sessions Greenville County

pursuant to S.C. 1976 Code of law § 14-5-790 (1) (a)
in which where the crime had allegedly been committed

in which pursuant to S.C. 1976 Code of law § 22-3-510

The ~~proceeds~~ procedure in which Indictment 2002-GS-23-1063
was issued, obtained, has been abolished, making

Indictment 2002-GS-23-1063 void and the trial conviction
and Sentence is void, Plus no indictment may be true

billed by a grand jury where circuit Courts lacks

jurisdiction, since grand juries jurisdiction is

co-extensive with criminal jurisdiction of Court in which

it is impaneled and for which it is to make inquiry

State v M^cClure, 289 S.E.2d 158, 277 S.C. 432

General Sessions Court for Greenville County was

not in Session of February 14, 2002, when the county

grand jury of the County of Greenville convened at a

term of Court for Pickens County pursuant to S.C. 1976

Code of law § 14-5-790 (2) pursuant to S.C. 1976 Code of

law ~~§ 14-5-790~~ § 14-9-210 which has been abolished

pursuant to § 22-3-510 and in which a County

Grand jury for Greenville County although by order

of circuit Judge John C. Few for October 16, 2001

Id as exhibit (5) Rp 146, authorized the county grand

Jurors for Greenville County to convene on February 19 2002 outside the terms of Court of General Sessions Court Greenville County, to prevent upon its oath Indictment 2002-GS-23-1063 was true bill of Indictment pursuant to SC 1976 Code of Law § 14-9-210 Id as exhibit "3" R.p. 144. in which has been abolished pursuant to SC 1976 Code of Law § 22-3-510. Id in exhibit "7" R.p. 148.

Conclusion

Based on the argument presented by Prose litigant Robert M. Watkins, the request relief in the form of vacating the conviction and sentence under Indictment 2002-GS-23-1063 of September 24, 2008 Id. in exhibit "1" R.p. 23, 24, 25, 26. He was convicted of an uncharged offense in which the trial Judge charged the jury. Id in R.p. 128 line 21 through R.p. 130 line 13. and not the charge as charged in the Indictment, 2002-GS-23-1063 charged by the County Grand jury. Id in R.p. 23, 24. in violation of Due process Watkins was never arraigned or put on Notice of the charge, charged to the jury USCA 5th, 14th; SC Const. article 1, § 3.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

NOV-03-2021

Appeal from Greenville County
Honorable Letitia H. Verdin Circuit Court Judge
Appellate Case No. 2020-001421
SC Court of Appeals

The State

Respondent

vs

Robert M. Watkins

Appellant,

Certificate of Counsel

I Robert M. Watkins certify that this final Brief of Appellant complies with 206B S.C.A.C.R. and the April 15, 2014 L to the best of my knowledge and legal ability as a pro-se Appellant. If anything is not in compliance please notify me so I am attempt to make the corrections in accordance with your legal request.

Robert Watkins 29380393B221

P.C.T.

430 Oaklawn Rd

Relzer SC 29669

October 27, 2021