

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY)	CASE NO.: 2020-CP-08-01349
)	APPELLATE CASE NO.: 2024-001521
Emory W. Roberts Jr.,)	
)	
Plaintiff/Petitioner,)	RETURN TO PLAINTIFF'S MOTION
)	FOR WRIT OF MANDAMUS
v.)	
)	
State of South Carolina,)	
)	
Defendant/Respondent.)	

NOW COMES the Defendant, by and through their undersigned counsel, who, in return to the Plaintiff's Motion for Writ of Mandamus would show and allege unto this Honorable Court as follows:

In his motion, Plaintiff requests this Court issue "a Writ of Mandamus to compell (sic) compliance of §17-27-80 by PCR Court and to restore Plaintiff's [right] to seek appellate review of the denial of PCR which is expressly authorized by state law pursuant to S.C. Code Ann. §17-27-100; Supreme Court Rule 50(9); and to compell (sic) 'Candor Toward the Tribunal' section of the South Carolina Professional Rules of Conduct (A)." Plaintiff alleges that the Defendant violated his "Sixth Amendment right to proceed pro se, Rule 60 of the Circuit Courts, and his due process pursuant to Rule 59(e) for failing to accept motions. The Plaintiff was indicted by the State Grand Jury and prosecuted by the South Carolina Attorney General's Office. Pursuant to South Carolina Code of Laws §14-7-1630-

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S.C. SUPREME COURT

1640, the State Grand Jury had jurisdiction over this matter; therefore, Defendant, as Clerk of Court for Berkeley County, had no jurisdiction to accept filings from Plaintiff. *State Grand Jury Act, S.C. Code Ann. §14-7-1630-1640.* The Defendant respectfully submits that the Plaintiff's motion is unfounded both in fact and at law.

CONCLUSION

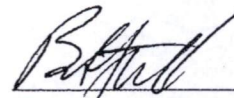
Based upon the foregoing facts, the Defendant respectfully requests that the Plaintiff's Motion for Writ of Mandamus be denied and dismissed.

RESPECTFULLY SUBMITTED,

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BY:



Bart J. Stegall

October 18, 2024
Moncks Corner, South Carolina

In arguing the State Grand Jury did not convene to indict him, Applicant relies on a letter addressed to Applicant from Court Administration that stated,

Your inquiry has been received by this office. The convening of the State Grand Jury is not dependent upon a term of General Sessions court and often does not meet at the same time as General Sessions terms. You are requesting a transcript from State Grand Jury proceedings. This is to advise that there is no court reporter assigned to record Grand Jury proceedings, and therefore, there is no transcript available.

However, at the PCR hearing, Underwood explained the State Grand Jury had a contract with Creel Reporting for transcription, which was separate from Court Administration, and the method for obtaining that transcript would be to go directly to the Court Reporter with Creel Reporting to obtain copies. (PCR 122-23). Based on Underwood's foregoing testimony, which this Court finds credible, this Court finds the letter from Court Administration is NOT proof that a transcript of this State Grand Jury proceeding did not exist. Rather, Court Administration did not have the transcript because Court Administration does not handle transcripts of State Grand Jury proceedings. Ultimately, Applicant has NOT provided clear evidence that the State Grand Jury proceeding was irregular and thus has not proven a due process violation. See Evans, 363 S.C. at 514, 611 S.E.2d at 520 ("The regularity of grand jury proceedings is presumed absent clear evidence to the contrary.").

Empanelment documents

Applicant also raises several due process claims related to the purported denial of the State Grand Jury's empanelment documents. In support, he references a portion of the trial transcript

§ 14-7-1630(A)(1) (providing the State Grand Jury has jurisdiction over "a crime involving narcotics, dangerous drugs, or controlled substances, or a crime arising out of or in connection with a crime involving narcotics, dangerous drugs, or controlled substances . . . if the crime is of a multi-county nature or has transpired or is transpiring or has significance in more than one county of this State.").