

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
APPEAL FROM CHEROKEE COUNTY
Court of Common Pleas

J. Durham Cole, Circuit Court Judge

Case No. 2014-000-595

Frazier T. Williams, Appellant,

v.

State of South Carolina, Respondent.

RECORD ON APPEAL

Frazier T. Williams
SCDC No. 227393
Perry Correctional Inst.
430 Oaklawn Road-Q4A/124
Pelzer, S.C. 29669
Pro Se

Sally W. Elliott
P.O. Box 11549
Columbia, S.C. 29211-1549
Attorney for Respondent

RECEIVED

OCT 09 2014

SC Court of Appeals

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STATE OF SOUTH CAROLINA)

COUNTY OF **CHEROKEE**)

Frazier T. **WILLIAMS**,)

-vs-)

The State of South Carolina,)

PETITIONER.)

IN THE COURT OF GENERAL SESSIONS

ORDER

Warrant/Indictment Number(s)

**1995-GS-11-475; 1995-GS-11-476;
1995-GS-11-477**

BRANDY MCBEE

2013 OCT 29 AM 9 00

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

This matter is before this Court on the petitioner's Motion to Proceed *In Forma Pauperis*. Petitioner wishes to file without fee a writ of mandamus asking the court to reverse, vacate, and dismiss his 1995 convictions for Burglary, Armed Robbery, and Murder.

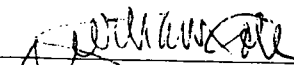
As grounds for the issuance of the writ, Petitioner contends that the trial court lacked subject matter jurisdiction to convict and sentence him because the indictments charging him were not properly presented to the grand jury pursuant to the South Carolina Constitution and South Carolina statutory law. The indictments were not properly presented, according to Petitioner, because the grand jury that indicted him was convened on the Thursday before the term of court during which he was tried instead of on the Monday beginning the court week.

Mandamus is the highest judicial writ and is issued only when there is a specific right to be enforced, a positive duty to be performed, and no other specific remedy. *City of Rock Hill v. Thompson*, 349 S.C. 197, 199, 563 S.E.2d 101, 102 (2002). The primary purpose of a writ of mandamus is to enforce an established right and a corresponding imperative duty created or imposed by law. *City of Rock Hill*, 349 S.C. at 200, 563 S.E.2d at 102. When the legal right is doubtful, or the performance of the duty rests in discretion, or when there is another adequate remedy, a writ of mandamus cannot rightfully be issued. *Id.* Specifically, for a writ of mandamus to be issued, the following must be shown: (1) a duty of the Respondent to perform the act; (2) the ministerial nature of the act; (3) the Petitioner's specific legal right for which discharge of the duty is necessary; and (4) a lack of any other legal remedy. *Edwards v. State*, 383 S.C. 82, 96, 678 S.E.2d 412, 419 (2009). The writ is based on the theory that an officer charged with a purely ministerial duty can be compelled to perform that duty in case of refusal. *Charleston Cnty. Sch. Dist. v. Charleston Cnty. Election Comm'n*, 336 S.C. 174, 179, 519 S.E.2d 567, 570 (1999).

This Court denies Petitioner's motion to proceed *in forma pauperis* because the underlying action—a writ of mandamus demanding the reversal, vacation, and dismissal of Petitioner's convictions—on its face is without merit. Petitioner's writ does not satisfy the elements, or the purpose, of mandamus as established by case law. Therefore, it would be futile to allow Petitioner to proceed with this action without cost.

IT IS SO ORDERED!

October 28, 2013.



**J. DERHAM COLE, Resident Judge
The Seventh Judicial Circuit Court**

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE
THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NO: 2013CP1100362

Frazier T Williams #227393 vs. State Of South Carolina

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY S.C.
2013 OCT 29 AM 9:48
BRANDY W. MCBEE

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**
 - Rule 12(b), SCRPC;
 - Rule 41(a), SCRPC (Vol. Nonsuit);
 - Rule 43(k), SCRPC (Settled);
 - Other: _____
- ACTION STRICKEN (CHECK REASON):**
 - Rule 40(j) SCRPC;
 - Bankruptcy;
 - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 - Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 - Affirmed;
 - Reversed;
 - Remanded;
 - Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Order

Dated at Gaffney, South Carolina, this the 29th day of October, 2013.

Court Reporter:

s/ J. Derham Cole

PRESIDING JUDGE - J. Derham Cole

This judgment was entered on the the 28th day of October, 2013, and a copy mailed first class this the 29th day of October, 2013, to attorneys of record or to parties (when appearing pro se) as follows:

Frazier T Williams #227393 Perry Correctional Inst.
430 Oaklawn Road-Q4A/105 Pelzer, SC 29669

Alan McCrory Wilson PO Box 11549 Columbia,
SC 29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Brandy W. McBee

Brandy W. McBee - Clerk of Court

Frazier T. WILLIAMS, SCDC #227393

The STATE of South Carolina,

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: the Court

Attorney for : Plaintiff Defendant
 or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order Statement of Judgment by the Court:

This matter was initially before this court on Petitioner's motion to proceed *in forma pauperis* in the filing of a writ of mandamus. This court issued an order denying the request because mandamus was not a proper method for seeking the relief requested. The matter is now before this Court on motions of the petitioner for recusal of the judge and to vacate the order. After careful consideration of the request, this court finds the Petitioner's motion for recusal and motion to vacate should be and are therefore **denied**.

ORDER INFORMATION

This order ends does not end the case.

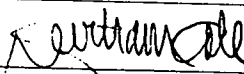
Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:


 Circuit Court Judge

2053
 Judge Code

2/21/14
 Date

For Clerk of Court Office Use Only

This judgment was entered on the 5th day of March 20 14 and a copy mailed first class or placed in the appropriate attorney's box on this 5th day of March 20 14 to attorneys of record or to parties (when appearing pro se) as follows:

Frazier T. Williams SCDC #227393
Perry Correctional Institution
430 Oaklawn Road, Q4A/105
Pelzer, S. C. 29669

Alan McCrory Wilson, AG, SC
Post Office Box 11549
Columbia, S. C. 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)
Judy R. McEl
CLERK OF COURT

Court Reporter:

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Lined area for additional information regarding the decision by the court.

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)
Frazier T. Williams,)
SCDC No. 227393,)
Petitioner,)
vs.)
State of South Carolina,)
Respondent,)

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No: _____

PETITION FOR ISSUANCE OF
A WRIT OF MANDAMUS

COME NOW, Frazier T. Williams, pro se, move the Honorable Court pursuant to Rule 65 (f)(1), SCRPC, for issuance of a writ of mandamus based on the following:

STATEMENT OF THE CASE

The petitioner was allegedly indicted on April 17, 1995, by the Cherokee County Grand Jury for murder (Indict. No. 95-65-11-477), Burglary (95-65-11-475), and Armed Robbery (95-65-476). After proceeding to trial by jury on October 30, 1995—November 3, 1995, he was found guilty on all charges and was sentenced to life plus twenty-five (25) years. A timely appeal was filed on the petitioner's behalf.

The South Carolina Court of Appeals affirmed petitioner's convictions and sentences on October 29, 1997. State v. Frazier, Op. No. 27-MO-101. On October 19, 1998, petitioner filed an Application for Post-Conviction Relief (PCR). A hearing was held on the application on August 13, 2002. The PCR Judge denied the application on September 26, 2002. A timely appeal was filed on petitioner's behalf. The South Carolina Supreme Court denied Petition for Writ of Certiorari on August 20, 2003.

The petitioner filed a petition for writ of habeas corpus in the United States District Court of South Carolina. This petition was dismissed on August 28, 2004.

The petitioner filed a petition for writ of habeas corpus in the Court of Common Pleas for Cherokee County on October 11, 2006. The Respondent made its Return and Motion to Dismiss on or about March 16, 2007. A evidentiary hearing was held on September 18, 2007, at the Spartanburg Courthouse. This petition was dismissed

on Dismissed on December 14, 2009. A timely appeal was filed on petitioner's behalf.

The South Carolina Supreme Court, by Order dated April 15, 2010, transferred this appeal to the South Carolina Court of Appeals. On May 27, 2010, the Court of Appeals dismissed the appeal. A timely Petition for Rehearing was filed. This petition was denied on July 14, 2010.

STANDARD OF REVIEW

The primary purpose or function of a writ of mandamus is to enforce an established right and to enforce a corresponding imperative duty created or imposed by law. To obtain a writ of mandamus requiring the performance of an act, the petitioner must show (1) a duty of the opposing party to perform the act, (2) the ministerial nature of the act, (3) the petitioner's specific legal right for which discharge of the duty is necessary, and (4) a lack of any other legal remedy. See Porter v. Jadziniak, 512 S.E.2d 497 (1999).

Moreover, in Anderson v. State, 527 S.E.2d 497 (1999), the Court held that even though petitioner convicted of murder did not raise issue of subject matter on appeal, he could raise it in his ensuing petition for writ of mandamus. Also, issues of subject matter jurisdiction may be raised at any time. State v. Ervin, 510 S.E.2d 220 (Ct.App. 1998).

ARGUMENT

The Trial Court Lacked Subject Matter Jurisdiction to Convict and Sentence Petitioner When There was no Presentment of His Indictments by a Lawfully Convened Grand Jury at a Term of General Sessions Court.

To satisfy his entitlement for issuance of a writ of mandamus, the petitioner submits that (1) S.C. Code of Law §§ 14-9-170 & 14-9-210 imposes a duty upon the grand jury to meet with general sessions court at each of its terms, and a corresponding duty upon SC Solicitors to submit bills of indictments to grand jury while it is in attendance at a term of general sessions court; (2) the S.C. Constitution, Art. I, 511, and S.C. Code of Law § 17-19-10, require grand jury presentment as a prerequisite to trial of all criminal cases; (3) petitioner has a constitutional and statutory right to be prosecuted upon presentment of an indictment returned by a grand jury; (4) petitioner has exhausted all other available remedies except a writ of mandamus.

For evidence in support of his entitlement to issuance of the writ, he submit that during and evidentiary hearing on his petition for writ of habeas corpus (C/A #06-CP-11-52) held on September 18, 2007, the Seventh Circuit Solicitor, Trent N.

Pruett, provided him and the Court a "Sworn Affidavit" in which he asserts, in relevant part, the following:

That from the years 1994 to 1996, I was the sole attorney working out of the Cherokee County Office for the Seventh Judicial Circuit, and I was responsible for signing and submitting indictments to the Cherokee County Grand Jury...(that) the practice of having the Grand Jury convene on the first day of a term of General Sessions Court was abandoned before I was employed with the solicitor's office. During the entire time (1987 to 1996) I was employed with the solicitor's office, "the Grand Jury in both Cherokee and Spartanburg Counties convened on the Thursday before a term of General Sessions Court..." See attached Affidavit attached hereto as Exhibit A.

The Solicitor further asserts in his Affidavit that the above practice was addressed in Brown v. State, 449 S.E.2d 494 (1994), where the grand jury of Aiken County stated that a finding of a "true bill" was found on an indictment on October 19, 1994, and the date on the indictment read that the "grand jury convened on October 22, 1994." The Solicitor goes on to assert that the SC Supreme Court in Brown held that the discrepancy between the two dates did not deprive the general sessions court of subject matter jurisdiction. He asserts that the Brown Court based its ruling, in relevant part, on the following authority:

The county grand jury is empaneled during the first term of general sessions of the calendar year. See S.C. Code Ann. §§ 14-7-1550 to 1570 (Supp. 1993). By Administrative Order of the Chief Justice, the Chief Judge for administrative purposes in each judicial circuit is responsible for scheduling when the grand jury in each county within the circuit will convene to receive evidence and deliberate. Administrative Section, South Carolina Register, pp. cc. ADMIN 3-4. "This order specifically encourages the Chief Judge to convene the grand jury when the court of general sessions is not in sessions..." Emphasis added. Exhibit A, infra.

In opposition to the Solicitor's reliance on the ruling in Brown infra, the petitioner submits that in United States v. Cotton, 122 S.Ct. 1781 (2002), which guided the SC Supreme Court's holding in State v. Gentry, 610 S.E.2d 494 (2005), held that the term "subject matter jurisdiction" means the
the court.

the court's constitutional and statutory power to adjudicate a case. In reliance on the holdings in both Cotton and Gentry, the petitioner contends that the trial court in his case lacked subject matter jurisdiction to convict and sentence him since the Respondent failed to comply with constitutional and statutory laws, Jurisdictional in nature, specifying the manner and means for lawful presentment of his indictments by a legally convened grand jury for trial of his cases in general sessions court.

A review of South Carolina Constitutional and Statutory Laws for grand jury's presentment of indictments shows that (1) no person may be held to answer for any crime...unless upon presentment of an indictment by a grand jury (SC Const., Art. I, §11 and SC Code §17-19-10); (2) the grand jury in each county shall consist of eighteen members, twelve of whom must agree (on true bill) before case can be presented for trial (SC Const., Art. V, §22); (3) the grand jury must meet with the general sessions court at each of its term (to present bills of indictments) (SC Code §14-9-170); (4) the county solicitor shall prepare and, through the presiding judge of general sessions court, submit to grand jury, while it is in attendance upon general sessions court, bills of indictment (for grand jury's presentment) (SC Code §14-9-210).

In conjunction with the above Constitutional and Statutory Laws, our Supreme Court has held that no indictment may be presented by a grand jury when general sessions court lacks jurisdiction (or is not in a term) since the grand jury's jurisdiction is coextensive with the criminal jurisdiction of general sessions court in which it is convened to make inquiry (on indictment for presentments). See State v. McClure, 289 S.E.2d 158 (1982); State v. Wheeler, 193 S.E.2d 515 (1972); See also, State v. Crouch, 585 S.E.2d 288 (2003)

Notwithstanding, the petitioner contends that, as a threshold matter, the Respondent's reliance on the Brown's Court ruling, to the extent that a grand jury can be convened outside a term of general sessions court to present bills of indictments, for denial of his subject matter jurisdiction claim would be misplaced because the Chief Justice could not, pursuant to the Separation of Power Clause of Article I, §8 of the SC Constitution, by any "Administrative Order encourage or authorize an Administrative Judge to convene a grand jury outside a term of general sessions court to present bills of indictments".

Furthermore, in reviewing the Statutory Laws of Title 14, it is obviously clear that the Brown Court failed to interpret the whole Statute regarding the convening of a grand jury to include S.C. Codes §§ 14-9-170 and 14-9-210, infra.

The statutory terms being construed must be examined in context and their meaning determined by looking at other terms used in the statute. State v. Hudson, 519 S.E.2d 577 (S.C.App. 1999).

In Sum, the petitioner contends that, as his indictments were presented on April 13, 1995, a Thursday before the term of General Sessions Court in Cherokee County on April 17, 1995, this indictment procedure failed to comport with constitutional and statutory requirements for lawful presentment of indictments. He further contends that because his indictments were presented contrary to the plain and unambiguous language of Statutory enactments by the S.C. Legislators under S.C. Codes §§ 14-9-170 and 14-9-210, his indictments cannot be relied on by the court to have conferred subject matter jurisdiction upon the trial court to convict and sentence him. If a statute's language is plain and unambiguous, as that of §§ 14-9-170 and 14-9-210, and conveys a clear and definite meaning, there is no occasion for employing any rule of statutory interpretation to the contrary. See Gilfillin v. Gilfillin, 544 S.E.2d 829 (S.C. 2001).

CONCLUSION

WHEREFORE, for the foregoing reason, the petitioner prays that the Honorable Court issue a writ of mandamus to reverse, vacate, and dismiss his convictions and sentences based on the Seventh Circuit Solicitor's gross misconduct that has resulted in a fundamental miscarriage of justice.

Respectfully Submitted,

1s/ Erazier T. Williams
Erazier T. Williams #227303
Perry Correctional Institution
430 Oaklawn Road-Q4A/105
Pelzer, S.C. 29569

This 24 day of APRIL, 2013

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHEROKEE)

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

FRAZIER TATE WILLIAMS,)
)
)
vs.)
)
STATE OF SOUTH CAROLINA,)
)
)
)
)

AFFIDAVIT OF
TRENT N. PRUETT

BRANDY
MOORE

2001 OCT - 5 A 10: 52

SEVENTH JUDICIAL CIRCUIT
CHEROKEE COUNTY, S.C.

Personally appeared before me, Trent N. Pruett, after first being sworn deposes and states the following:

1. That I am an attorney licensed to practice in the State of South Carolina, and that I was admitted to the bar on November 16, 1983.

2. That from 1987 to 1996, I worked in the Seventh Judicial Circuit Solicitor's Office, as a Assistant Solicitor and Deputy Solicitor.

3. That from the years 1994 to 1996, I was the sole attorney working out of the Cherokee County Office for the Solicitor's Office for the Seventh Judicial Circuit, and I was responsible for the signing and submitting of indictments to the Cherokee County Grand Jury.

4. That during the time period I worked in the Solicitor's Office, from 1987 to 1996, all indictments in the Seventh Judicial Circuit, in both Spartanburg and Cherokee Counties, stated in the preamble to the body of the indictment, that "At a court of General Sessions on [DATE], the Grand Jurors of [NAME OF COUNTY] County present upon their oath....". These indictment forms were provided to the Solicitor's Office by the Attorney General's Office. The language in the preamble, that the Grand Jury convened during a term of General Sessions court, was based upon the historical practice, whereby the Grand Jury convened on the first day of a term of General Sessions court. Customarily, both the Grand Jury and the members of the Petit Jury would report to the Court of General Sessions on the first day of the term. As the Grand Jury returned indictments, and the presiding judge received the reports of the Grand Jury, Defendants were immediately arraigned, a plea of "guilty" or "not guilty" was entered, with the trial of any defendant pleading "not guilty" immediately following his arraignment. See *State v. Floyd*, 174 S.C. 288, 177 S.E. 375 (1934).

5. The practice of having the Grand Jury convene on the first day of a term of General Sessions court was abandoned before I was employed with the Solicitor's Office. During the entire time I was employed with the Solicitor's Office, the Grand Jury in both Cherokee County and Spartanburg County, convened on the Thursday before a term of General Sessions court. Although the Grand Jury convened the Thursday preceding any term of General Sessions court, the Solicitor's Office continued to use the aforesaid forms provided by the Attorney General's Office, and inserted the date that the term of General Sessions court commenced. This very practice was addressed in *Brown v. State*, 316 S.C. 258, 449 S.E.2d 494 (1994), where the grand jury of Aiken County stated that a finding of a "True Bill" was found on an indictment on **October 19, 1994**, and the date on the indictment read the grand jury convened on **October 22, 1994**. The South Carolina Supreme Court held that the discrepancy between the two dates did not deprive the general sessions court of subject matter jurisdiction. The *Brown* Court stated:

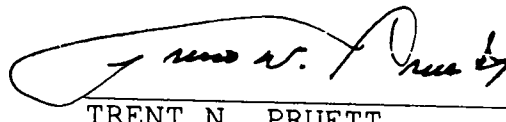
The county grand jury is empaneled during the first term of general sessions of the calendar year. See S.C. Code Ann. §§14-7-1550 to 1570 (Supp. 1993). By Administrative Order of the Chief Justice, the Chief Judge for administrative purposes in each judicial circuit is responsible for scheduling when the grand jury in each county within the circuit will convene to receive evidence and deliberate. Administrative Section, South Carolina Register, pp. CC ADMIN 3-4. **This order specifically encourages the Chief Judge to convene the grand jury when the court of general sessions is not in session.** After the grand jury has deliberated, it then reports its findings of "True Bill" or "No Bill" to the court of general sessions. This report may be made on the same day as the day the grand jury makes its findings, or it may be made at some later time.

In the present case, the dates show that the grand jury took action on the indictments on a date earlier than the date on which they made their report to the court of general sessions. As explained above, this is perfectly normal.

Brown v. State, 316 S.C. 258, 260, 449 S.E.2d 494, 495 (1994) (emphasis not in original opinion)

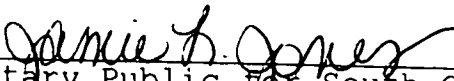
6. That because I was the solicitor in charge of signing those indictments that would be presented at the Grand Jury in Cherokee County in 1995, I can swear that the Grand Jury in fact met the Thursday before April 17, 1995, and that the indictment against Frazier Tate Williams was returned by the Grand Jury at that time, along with numerous other indictments.

7. The practice I have outlined above was followed as to every Defendant indicted in the Seventh Judicial Circuit during the time period in question, and it is my understanding that this is the practice that was then followed by most Circuit Solicitors in the State of South Carolina.



TRENT N. PRUETT

Sworn to before me this 25th day of September, 2007

 (Seal)
Notary Public for South Carolina
My Commission Expires: 11/14/10

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FOCUS™ Terms 14-9-210 Search Within Original Results (1 - 3) Go Advanced...

Source: South Carolina > Find Statutes, Regulations, Administrative Materials & Court Rules > SC - South Carolina Code of Laws Annotated by LexisNexis
 TOC: South Carolina Code of Laws Annotated > / / > CHAPTER 9. COUNTY COURTS > § 14-9-210. Indictments for county court cases by grand jury of court of general sessions.

Terms: 14-9-210 (Edit Search | Suggest Terms for My Search)

Select for FOCUS™ or Delivery

S.C. Code Ann. § 14-9-210

SOUTH CAROLINA CODE OF LAWS ANNOTATED BY LEXISNEXIS(R)

Practitioner's Toolbox

*** THIS DOCUMENT IS CURRENT THROUGH THE 2007 REGULAR SESSION ***
 *** THE MOST CURRENT ANNOTATION IS DATED DECEMBER 15, 2008 ***

Case Notes

History

TITLE 14. COURTS
 CHAPTER 9. COUNTY COURTS

GO TO SOUTH CAROLINA ARCHIVE DIRECTORY

S.C. Code Ann. § 14-9-210 (2007)

§ 14-9-210. Indictments for county court cases by grand jury of court of general sessions.

The county solicitor shall prepare and, through the presiding judge of the court of general sessions, submit to the grand jury, while in attendance upon the court of general sessions, bills of indictment in all cases pending in the county court in which the punishment may exceed a fine of one hundred dollars or imprisonment for thirty days, when such cases have not been previously acted on by the grand jury. The grand jury shall act thereon and report its action to the presiding judge of the court of general sessions and said judge shall direct the clerk of the court of general sessions to report the same to the presiding judge of the county court at its next ensuing term. All cases in which bills of indictment are so found shall stand for trial by the county court as though found by the grand jury while in attendance upon the county court.

History:

1962 Code § 15-621; 1952 Code § 15-621; 1942 Code § 89; 1932 Code § 89; Civ. P. '22 § 86; Civ. C. '12 § 3861; Civ. C. '02 § 2764; 1900 (23) 322.

NOTES:

Editor's Note

LexisNexis (R) Notes:

Case Notes:

- Constitutional Law > Bill of Rights > Fundamental Rights > Procedural Due Process > Scope of Protection
- Criminal Law & Procedure > Accusatory Instruments > Indictments > General Overview
- Criminal Law & Procedure > Trials > Defendant's Rights > Right to Due Process

Constitutional Law > Bill of Rights > Fundamental Rights > Procedural Due Process > Scope of Protection

1. Defendant, who successfully appealed two municipal court charges, failed to prove that her conviction in general sessions court of pointing a weapon, a violation of S.C. Code Ann. § 16-23-410, stemming from the same conduct as the municipal court charges, was vindictive prosecution in violation of her USCS Const. Amend. 14, § 1 due process rights, because under S.C. Const. art. V, § 24, and S.C. Code Ann. § 1-7-320 and S.C. Code Ann. § 14-9-210, it is the solicitor's duty to prosecute criminal charges, including procurement of the proper indictment from the grand jury, the pointing offense had been charged at the same time as the municipal court offenses, and in directly indicting defendant for assault with intent to kill the solicitor had been unaware of the disposition of the municipal court charges. State v. Fletcher, 322 S.C. 256, 471 S.E.2d 702, 1996 S.C. App. LEXIS 63 (S.C. Ct. App. 1996).

Criminal Law & Procedure > Accusatory Instruments > Indictments > General Overview

2. Defendant, who successfully appealed two municipal court charges, failed to prove that her conviction in general sessions court of pointing a weapon, a violation of S.C. Code Ann. § 16-23-410, stemming from the same conduct as the municipal court

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Date 10-6-2014

Frazier T Williams
SCDC No. 22 7393
Perry Correctional Inst.
430 Oaklawn Road-24A/124
Pelzer, S.C. 29669
Pro Se