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JUN 16 2016

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM GREENWOOD COUNTY
Thomas L. Hughston, Jr., Circuit Court Judge

2014-000980

The StateRespondent

v.

Rodney Lee Rogers, Sr.Appellant.

PETITION FOR REHEARING

O. W. Bannister
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NOW COMES the Appellant, Rodney Lee Rogers, Sr., by and through his undersigned counsel, and moves this Court for a rehearing pursuant to Rule 221(a), S.C.A.C.R. Grounds for the said Petition are as follows:

The Appellant Rogers was convicted of a crime for which he was never indicted, never waived indictment, never consented to be tried for, and was never put on notice to prepare a defense for.

The Court of General Sessions had the subject matter jurisdiction to try defendants who are properly accused of committing a lewd act on a minor. In the within action, the circuit court did not have jurisdiction to try Appellant for a crime that was not charged before the jury was selected, during the evidentiary portions of the trial, and until after the close of all of the evidence. It was at the point the judge charged a new and different crime for which the jury then convicted Appellant.

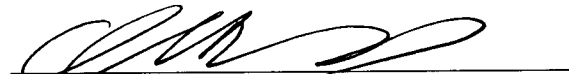
Nowhere in the record was Appellant ever asked if he waived presentment of an indictment, agreed to being tried on an entirely new criminal charge or if he consented to so be tried.

Under the circumstances of this case, the lower court did not have subject matter jurisdiction to try this Appellant on this unindicted, unwaived criminal charge.

WHEREFORE, Appellant requests this Court to reconsider its decision.

Respectfully submitted,

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June 15, 2016