

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
IN THE FIFTH JUDICIAL CIRCUIT

COUNTY OF RICHLAND)

Anthony James, et al.,)

Civil Action No. 2016-CP-40-02102

Plaintiff,)

ORDER

vs.)

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State of South Carolina,)

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Defendant.)

SC Court of Appeals

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This court convened a hearing concerning the State of South Carolina’s Motion to Dismiss in the above captioned case on February 16, 2017. Kevin Maroney appeared and presented arguments on behalf of the State. The Plaintiffs, Mr. James, Mr. Washington, and Mr. Agnew are *Pro Se* litigants. They were present at the hearing. Mr. James and Mr. Agnew presented arguments on behalf of each Plaintiff.

This court grants the State’s Motion to Dismiss pursuant to Rule 12(b)(6).

I. Rule 12(b) (6)

Mr. James contends that a grand jury must be convened while a court of general sessions is in session; otherwise, any true bill indictments issued by that body are void. It follows from his argument that, void indictments render his subsequent conviction and the current order of commitment governing his incarceration void. The other Plaintiffs argue similarly.¹ Notwithstanding, The Plaintiffs are mistaken regarding the premise of their argument—grand juries need not issue true bill indictments while a court of general sessions is in session.

As the Supreme Court of South Carolina explained, an order of the Chief Justice

¹ The other Plaintiffs, Labronte Agnew and Cornelius Washington, do not say in what counties or on what dates Grand Juries returned “True Bill” indictments against them.

encourages the Chief Administrative Judge for each circuit to convene a grand jury when the court of general sessions is *not* in session.² After the grand jury deliberates, it reports its findings of “true bill” or “no bill” to the court of general sessions.³ The grand jury can give that report the same day as the grand jury makes its findings, or on some later day.⁴ Moreover, the governing statute does not require grand jurors to meet while a court of general sessions is in session. A county clerk of court has the authority to require the attendance of grand jurors on the first day of the first week of criminal court in the county, but he may also require the attendance of grand jurors at other times.⁵ Thus, whether a general sessions court was in session while the respective grand juries returned true bill indictments against each of the Plaintiffs does not render those indictments void; the Plaintiffs’ subsequent convictions and the orders of commitment are not void as a result of the general sessions court being out of session, either.

A more fundamental question is whether the Plaintiffs can collaterally attack the “True Bill” indictments at all. Section 17-19-90 states the following: “every objection to any indictment for any defect apparent on the face thereof shall be taken by demurrer or on motion to quash such indictments before the jury shall be sworn and not afterwards.”⁶ Additionally, the Uniform Post-Conviction Relief Act (the Act) provides the exclusive remedy for those collaterally attacking their conviction or sentence upon any ground of alleged error;⁷ the Act also provides the exclusive remedy for those claiming the circuit court was without jurisdiction to impose sentence.⁸ The Act displaces all common law, statutory, or other remedies previously available

² *Brown v. State*, 316 S.C. 258, 260, 449 S.E.2d 494, 495 (1994).

³ *Id.*

⁴ *Id.*

⁵ *S.C. Code Ann.* §14-7-1520.

⁶ *S.C. Code Ann.* §17-19-90.

⁷ *S.C. Code Ann.* §17-27-20(A)(6).

⁸ *S.C. Code Ann.* §17-27-20(A)(2).

for challenging the validity of a conviction or sentence.⁹


II. Conclusion

Because the Plaintiffs' action fails to state facts sufficient to constitute a cause of action, the court dismisses this case with prejudice.

THEREFORE, THE COURT ORDERS THE FOLLOWING:

1. The above captioned action is **DISMISSED WITH PREJUDICE** under Rule 12(b)(6) for the failure to state facts sufficient to constitute a cause of action.

February 22, 2017


L. Casey Manning
Presiding Judge
Circuit 5

⁹ S.C. Code Ann. §17-27-20(B).