

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Certiorari to Spartanburg County  
Court of Common Pleas  
Hon. J. Mark Hayes, II, Presiding

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Appellate Case No.2017-000076

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**RECEIVED**

MAY 11 2017

**S.C. SUPREME COURT**

Jeffrey E. Jeter -- Petitioner,

-vs-

State of South Carolina -- Respondent,

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PETITIONER'S REPLY TO  
RESPONDENT'S RETURN TO PETITION FOR  
WRIT OF CERTIORARI

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Jeffrey E. Jeter  
SCDC# 131471  
Perry Corr. Inst.  
430 Oaklawn Rd.  
Pelzer, SC. 29669

Appellant, pro-se

## ARGUMENT

A. Petitioner's argument [is] preserved for appellate review. Petitioner contrary to Respondent's assertion, did raise this issue in his 60(b) motion and reiterated the argument in precisely the same manner in his Rule 52(b), 59(e) motion to alter/amend and or reconsider judgement. The purpose of a Rule 52(b) is specifically point out specific facts and arguments the lower court may have possibly overlooked in making it's ruling. Further, a Rule 59(e) is for the purposes of preserving an issue for appellate review in the event the lower court did not specifically rule on the issue in making it's ruling in order to preserve the issue for review.

B. The lower court erred in denying the Rule 60(b) as untimely. Rule 60(b)(3), SCRPC specifically provides that a Court may relieve a party from a final judgment based upon fraud, misrepresentation, [or] other misconduct of an adverse party. Petitioner presented clear and convincing evidence in the record that the solicitor committed deliberate fraud and misrepresentation that resulted in an illegal sentence.

C. The Circuit court erred in denying the motion as meritless. In a motion seeking relief under Rule 60(b), SCRPC the movant has the burden of presenting evidence, proving facts essential to entitle him to relief. *Bowers v. Bowers*, 304 S.C. 65, 403 S.E.2d 127 (Ct.App.1991). In the instant matter, Petitioner clearly provided the lower court with the transcript of the record as well as a copy of the indictments, that [all] support the

underlying claim of fraud and misrepresentation by the Solicitor during the plea colloquy. Petitioner would also remind this Court that the Respondent is responsible for inadequately preparing the proposed orders in this case and submitting them to the court without the court advising [both] parties of such a request, if one was even made by the Court.

D. Respondent's Return has failed to address the subject matter jurisdiction claim in regards to the the sentencing court enhancing Petitioner's forgery charges to "subsequent third offenses" without the indictments being returned to the grand jury for consideration. With a practical eye, one can easily glean the forgery indictments and plainly see the grand jury [only] indicted Petitioner for forgery under \$5,000. See exhibit (A) from the lower court record. None of the forgery offenses were indicted by a grand jury over \$5,000. Therefore the Court lacked subject matter jurisdiction, which can be raised at any time. See Carter v. State, 329 S.C. 355, 495 S.E.2d 773 (1998); also see State v. Funderburk, 259 S.C. 256, 191 S.E.2d 520 (1972). Petitioner submits that the Respondent has abandoned the subject matter jurisdiction claim.

E. Respondent's have abandoned the argument the sentence handed down by the court is [void] and is an illegal sentence due to the maximum handed down. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime. 307 S.C. 339, 415 S.E.2d 384 (1992).

**CONCLUSION**

Based on the forgoing, Certiorari should issue or in the alternative the case should be remanded back to the lower court with instructions to correct the sentence.

Respectfully Submitted,

/s/ 

Jeffrey E. Jeter

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies he has served a true and correct copy of the enclosed Reply on the attorney for Respondent in the above captioned case number, Ms. Alicia A. Olive, Assistant Attorney General, P.O. Box 11549, Columbia, SC. 29211.

By placing the aforesaid in properly addressed, first-class postage affixed and placed in the U.S. Mail this 4th Day of May, 2017.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 4TH DAY OF MAY, 2017.

*Tamara Conwell*  
NOTARY PUBLIC

My Commission  
MY COMM. EXPIRES September 25, 2023

Respectfully Submitted,

/s/ *Jeffrey E. Jeter* (13147)  
Jeffrey Jeter

Appellant, pro-se

Jeffrey E. Jeter  
SCDC# 131471  
Perry Corr. Inst. (3A-124)  
430 Oaklawn Rd.  
Pelzer, SC. 29669

South Carolina Supreme Court  
Mr. Daniel Shearouse, Clerk  
P.O. Box 11330  
Columbia, SC. 29211

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