

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Greenville Co.  
the Court of General Sessions  
Hon. Chief Adm. Judge  
Letitia H. Verdin  
#2002-GS-23-1576

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RECEIVED

JUL 12 2017  
SC Court of Appeals

The State

Respondent

vs

Jerome Williams

Appellant

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DESIGNATION OF MATTER

TO BE INCLUDED IN THE RECORD ON APPEAL

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Appellant proposes the following be included in the Record on Appeal:

- (1) Betty Strom's Ex. A
- (2) Ex. B - Appellant's 60(b) action
- (3) Ex. 1 - Appellant's Ind.
- (4) Ex. 2 - Appellant's court term calendar
- (5) Ex. C - letter from Betty Strom to Judge Verdin dated Feb 14, 17
- (6) Ex. D - Appellant's letter to Judge Verdin dated Feb 20, 17
- (7) Ex. E - Judge's order denying Appellant's 60(b) motion dated May 15, 2017.

I certify that this designation contains no matter which is irrelevant to this appeal

Date: 7-10-17

Jerome Williams

Jerome Williams  
Tyger R.C.F.  
200 Prison Rd  
U.S.

Enoree, SC 29335

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )  
 )  
IN RE: )  
 )  
 )  
 )  
GRAND JURY SESSIONS )  
JANUARY-JUNE 2002 )  
\_\_\_\_\_ )

IN THE COURT OF GENERAL SESSIONS

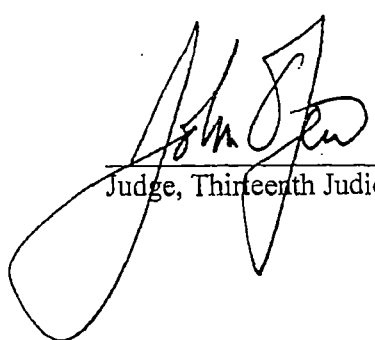
ORDER

IT IS ORDERED that the Grand Jury for Greenville County, South Carolina, shall convene during the month of January – June 2002 as follows:

MONDAY	JANUARY 7, 2002
TUESDAY	FEBRURY 19, 2002
TUESDAY	MARCH 19, 2002
TUESDAY	APRIL 2, 2002
TUESDAY	MAY 7, 2002
TUESDAY	JUNE 25, 2002

IT IS FURTHER ORDERED that the Clerk of Court for Greenville County, South Carolina, shall notify all Grand Jurors of these meeting dates and times.

IT IS SO ORDERED.



\_\_\_\_\_  
Judge, Thirteenth Judicial Circuit

Greenville, South Carolina  
October 16, 2001

Ex B

State of South Carolina  
County of Greenville

Jerome Williams  
Defendant

-vs.-

State of South Carolina  
Plaintiff.

In the Court of General Sessions

Case No: ~~02-65-23-1576~~

02-65-23-1576

Memorandum in support of motion to set aside judgment.

Comes now the defendant, Jerome Williams, Pro se, and hereby submits the memorandum in support of his rule 60 (b) (3) (5), SCRCF, motion to set aside judgment, raising claim of a fraud upon the court, as perpetrated by Greenville County Assistant Solicitor Lora A. Reese. Accordingly, defendant Jerome Williams (hereafter "Williams") would show this court the following:

I

Statement of Facts

Williams was convicted and sentenced in the Court of General Sessions, for Greenville County, after entering a guilty plea on June 19, 2002 for violation of S.C. Code Ann. { 16-11-311 Burglary First Degree. Judge John Few accepted Williams' plea and sentenced him to a thirty (30) year period of incarceration in the S.C. department of Correction.

## II

### Statement of Case

This motion involves Williams' attempt to gain relief from the judgment and conviction and sentence entered against him on June 19, 2002 in the above captioned criminal case. The rule 60 (b) (3) (5), SCRCP motion raises claim of a fraud upon the court, resulting from acts of gross misconduct and criminal violation of the law, as perpetuated by Lora A. Reese, the Greenville County Assistant Solicitor, in office on February 19, 2002, at the time the violations herein alleged arose.

Specifically, Assistant Solicitor Lora A. Reese (hereafter "Reese") caused false and misleading information to be printed and published in the true billed State Indictments returned against defendant Williams.

The facts and evidence below will conclusively establish an instance of extrinsic fraud upon the court.

## III

### Argument

[Standard of Review]

It is clear that a motion made for relief from judgment under Rules of Civil Procedure (SCRCP) rest within the sound discretion of the trial court. See Savo Investments V. Ocean Holiday Partnership, 314 S.C. 116, 441 SE2d 835, 843 (ct App 1994); Thomas V. Hammond, 279 S.C. 115, 382 SE2d 900 (S.C. 1989). A motion asserting "Fraud upon the court concerns the integrity of the Judicial process itself [and] a judgment may be set aside for fraud upon the court at any

time”; see 12 Joseph T. McLaughlin, Morris Federal Practice {60.21 [4] [a] at 60-61. That is, when a party can show [extrinsic] fraud upon the court “there is no time limit on any party or the court.” Id. See also Chewing V. Ford Motor Credit Co. 354 S.C. 72, 579 SE2d 605 (S.C. 2003). (There is no statute of limitation when a party seeks to set aside a judgment due to fraud upon the court.) Indeed, the very language of rule 60 (b) (3) (5), so provides, “This rule does not limit the power of the court...to set aside a judgment for fraud upon the court.”

Accordingly, this motion raising claim of an extrinsic fraud upon the court is both timely and proper, and Williams should be allowed to take testimony and present evidence at the hearing when scheduled.

Therefore, Williams would show this Court the following:

[Fraud Upon the Court]

In this case, Williams’ bill of indictment prints that, at a Court of General Sessions, convened on February 19, 2002, the Grand Jurors of Greenville County presented upon their oath (see exhibit 1 Indictment) and the title page prints that it was published at a Court of General Sessions during its February term 2002 (see exhibit 1 Indictment). Lastly, all indictments are true billed and signed by Greenville County Assistant Solicitor Lora A. Reese (see exhibit 1 Indictment) who was in office at the time, and who would therefore be the person directly responsible for preparing and processing Williams’ indictment.

However, the clear evidence presented below conclusively establishes that no Court of General Sessions had in fact been open on the indictment’s February 19, 2002 date of return. Thus, false information is contained in Williams’ State indictment, and therefore, in support of his claims, Williams would show this court the following:

The terms of court for Greenville County are tentatively fixed by S.C. code Ann. { 14-5-790, and which does not provide for a court to be open on the indictments day or return and publishing. Although in practice, the Greenville County terms of court are actually being set in six month intervals by order of the State Supreme Court. However, notwithstanding those conditions, the record clearly shows that no General Sessions Court had been open on the date in question (see exhibit 2 certified true copy court term calendar). Therefore, false information is contained in Williams' State Indictment, which was processed by Assistant Solicitor Lora A. Reese.

It is an offense against public justice to willfully give false information in a state indictment. S.C. code Ann. { 16-9-10, "Perjury and subordination of perjury" states in pertinent part:

- A. (2). It is unlawful for a person to willfully give false, misleading or incomplete information on a document, record, report or form required by the law of this state.
- B. (2) A person who violates the provisions of subsection A. (2). is guilty of a misdemeanor, and upon conviction must be imprisoned not more than six months, or fined not less than one hundred dollars or both.
- C. A person may be convicted under this section...if he or she commits perjury by his own act, consent or agreement.

First, it should be noted that a criminal indictment is a document required by the law of this state (see S.C. code Ann. {17-17-10 (2003) "No person shall be held to answer in any court for an alleged criminal offence, unless upon indictment by Grand Jury" except in specific

instances). Therefore, for purposes of establishing perjury under these provisions of {16-9-10, Williams true billed indictment would clearly satisfy the requirements of subsection A. (2).

Second, it should be noted that Assistant Solicitor Lora A. Reese was in office and operating as Greenville County Prosecutor during the times relevant to the herein alleged violations, and therefore, was required to know the laws of this state, and had special responsibilities to see that justice was done. See Appellant Court Rules 407, Rules of Professional Conduct, Rule 3.8 comment; see also State V. Quattlebaum, 338 S.C. 86, 212 SE2d 587 (1975); State V. King, 222 S.C. 108, 71 SE2d 793, 798 (1952) "...the prosecutor must see that no conviction takes place except in strict conformity with the law, and that the accused is not deprived of any constitutional rights or privileges".

[Insert added]

Therefore, Assistant Solicitor Reese's act of printing false court term information in Williams' indictment would by necessity have to be viewed as a "willful" act. Accordingly, Ms. Reese is guilty of violations of {16-9-10, which acts would also constitute gross misconduct (see Rules of Professional Conduct, Rule 407, SCRCP; Rule 8.4b) "It is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects"; and Rule 8.4(d) "It is professional misconduct for a lawyer to engage in dishonesty, fraud, deceit or misrepresentation".

In general, extrinsic fraud upon the court can be defined as "...a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication" (see Evan V. Gunter, 294 S.C. 525, 366 SE2d 44, 46 [1988], quoting H. Lightsey, J. Flannagon, S.C. Civil Procedure, 408

2<sup>nd</sup> ed. [1985] ). Importantly, our Supreme Court in Chewing held that, "The subordination of perjury by an attorney and/or the intentional concealment of documents by an attorney are actions which constitute extrinsic fraud" Id at 579 Se2d at 610.

Defendant Williams asserts that the facts and evidence presented above showing Reese's criminal violations of {16-9-10 "perjury against public justice" is in and of itself sufficient under Chewing to make out a Prima facie case of extrinsic fraud upon the court. Plainly, the false February 19, 2002 information printed and published in Williams' indictment by Assistant Solicitor Lora A. Reese did indeed harm the integrity of the judicial process.

Therefore, Williams would also show this court the following:

A criminal defendant in this state has a constitutional and statutory right to have an indictment returned by a legally constituted Grand Jury (see Evans V. State, 363 S.C. 495, 611 SE2d 510 [2005]; State V. Williams 263 S.C. 290, 210 SE2d 298 [1974] ), and the right to make contemporaneous objections to a defective indictment, see S.C. Code Ann {17-19-90, "Every objection to an indictment for any defect apparent on the face thereof, shall be taken by demurrer or on motion to squash such indictment before the jury shall be sworn and not afterwards." Those procedural Due Process rights are owed to every criminal defendant in this state, and which also operates as checks and balances in the Judicial Process. However, in this case, the proper functioning of the court was frustrated by Ms. Reese's willful act of printing false information in Williams' indictment, incorrectly stating that the Grand Jury had been impaneled at a court of General Sessions on February 19, 2002 when in fact no such court had been open (see exhibit 1 indictment in comparison with exhibit 2 calendar). Thus Ms. Reese was able to

give an appearance of correctness to an otherwise irregular and most likely unlawful Grand Jury process (see exhibit 3, Newspaper Article).

Significantly, the false information also operated in such a manner as to improperly lead Williams into believing that the Grand Jury process had been supervised by the Court. In fact, it was this very reliance on the correctness of process that caused Williams not to make a contemporaneous objection to either the Grand Jury procedures, or its indictments. Importantly, Williams' failure to make contemporaneous objection to false indictment information also resulted in the court itself be deprived of the opportunity to examine and make necessary correction to a Grand Jury process known for its irregularities, (see exhibit 3, Newspaper Article). Interfering with the administration of justice in the manner shown here involves injury not only to Williams, but to public confidence in our state's judicial system as well. The proper functioning of our courts is a topic of great and fundamental interest in South Carolina, (see Quattlebaum, 338 S.C. 441 527 SE2d 109 (2000), "Every South Carolinian has a vital interest in the fair administration of justice").

Based on the facts and evidence presented in the record of this case, Williams has established that Assistant Solicitor Reese committed gross acts of misconduct and perjury against public justice, directed at the Judicial Process itself. Accordingly, fraud upon the court is shown here, (see Chewing and Evans. Rule 60 (b) (3) (5), SCRCP, places no limit on the power of the court to set aside judgment of conviction and sentence for a fraud upon the court.

Therefore, this court should correct its wrongs committed against Williams and this state's judicial system by Ms. Reese.

EX-1

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
BURGLARY  
FIRST DEGREE

At a Court of General Sessions, convened on FEBRUARY 19, 2002 the

Grand Jurors of Greenville County present upon their oath:

That JEROME WILLIAMS did in Greenville County, on or about the 27th day of January, 2001, willfully and unlawfully enter the dwelling of Robert E. Seay located at 1 Cedar Court, without consent with the intent to commit a crime therein, and the entering ro remaining did occur in the nighttime. This is in violation of §16-11-311 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

W. R. R. R.  
SOLICITOR

Terms of Circuit and Family Court  
February 2002

EXHIBIT 2

Holiday:  
Mon Feb 18, President's Day

Circuit Number	2/4/2002	2/11/2002	2/18/2002	2/25/2002
13	General Sessions Greenville Few, John  JOHNSON	General Sessions Greenville Few, John  JOHNSON	Common Pleas Non- Jury 19 Floyd, Henry  DIGIROLAMO 19	Common Pleas Greenville Few, John  JOHNSON
	General Sessions Greenville Kittredge, John  KOFFSKEY	General Sessions Greenville Kittredge, John  KOFFSKEY	General Sessions 21 Greenville Watson, Joseph	Common Pleas Non- Jury 25, 26 Kittredge, John  KOFFSKEY 25, 26
	Common Pleas Greenville Patterson, Larry  DIGIROLAMO	General Sessions Greenville Patterson, Larry  DIGIROLAMO	General Sessions/State Grand Jury 22 Greenville Few, John	Common Pleas Greenville Patterson, Larry  DIGIROLAMO
	Common Pleas Non- Jury Watson, Joseph  THOMAS	General Sessions Pickens Watson, Joseph  JENKINS		Common Pleas Non- Jury/PCR Watson, Joseph  Common Pleas Non- Jury 1 Kittredge, John  KOFFSKEY 1

CERTIFIED TRUE COPY,

By 

South Carolina Court Administration

State of South Carolina  
Solicitor, Thirteenth Judicial Circuit

Ex. C

Telephone: 864-467-8647  
Telefax: 864-467-8610



Greenville County Courthouse  
305 E. North Street, Suite 325  
Greenville, SC 29601-2185

Solicitor  
W. Walter Wilkins

February 14, 2017

The Honorable Letitia Verdin  
Chief Administrative Judge for General Sessions  
305 E. North Street, Suite 318  
Greenville, SC 29601

Re: State of SC v. Jerome Williams  
Indictment # 2002-GS-23-001576

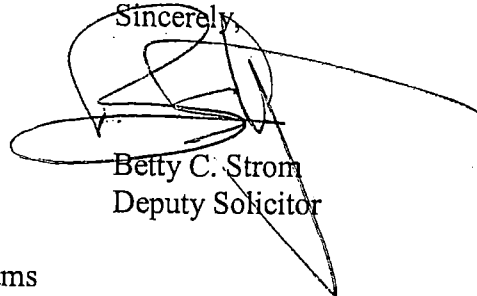
Dear Judge Verdin:

I am writing to you in your capacity as Chief Administrative Judge for General Sessions court. The above defendant has filed a Motion to Set Aside Judgement to which the state responded in writing. This was done back in 2014. A hearing was never scheduled by the Chief Administrative Judge and subsequently the defendant has filed a law suit against the State.

I am writing to request that you review the matter and either decide on the basis of the pleadings, or to schedule a hearing in the matter. I believe you can determine the matter based upon the pleadings, but I am just trying to get this matter resolved.

If there is anything I can do, please do not hesitate to contact me. I have enclosed copies of the pleadings filed in the clerk of court's office for your convenience.

Sincerely,



Betty C. Strom  
Deputy Solicitor

cc: W/out enclosures Jerome Williams  
Inmate # 00213559/Tyer River Correctional Institute

Ex. D

Date 2/20/17

Dear Judge

Please be advised, that I rec'd solicitor letter regarding my 60 (b) motion and her answer.

With all due respect, my 60 (b) motion can "not" be argued nor decided without a hearing - orally argued from both sides"

Solicitor Betty Stron own answer support my request for a hearing. If I filed in the wrong court, per S.C.R. Civ. P. - Rule 82 ca) I can ask for my action to be moved to the right Ct.

And, make any amendments per. Rule 15 (b), with leave of the Ct.

A matter of fact, Solicitor Betty Stron refused to say anything about my 60 (b) motion until I filed a mandamus <sup>#</sup> 2016-CP-90-5056 upon this matter.

Thus, would you be so kind as to set my 60 (b) for a hearing. Thereby any appeal rights/issues for both

cc: Solicitor

Personal file

Sincerely  
Gene Williams

Ex. E

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
 )  
COUNTY OF GREENVILLE ) THIRTEENTH JUDICIAL CIRCUIT

THE STATE )  
 )  
VS. ) ORDER DENYING DEFENDANT'S MOTION  
 )  
JEROME WILLIAMS, ) 2002-GS23-1576  
 )  
DEFENDANT )

02231576

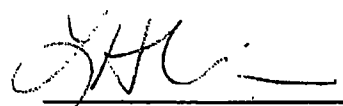
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GREENVILLE CO  
2017 MAY 15 PM 1:39

THIS MATTER CAME BEFORE ME FRIDAY, MAY 12, 2017 ON A PRO SE MOTION OF THE DEFENDANT, Jerome Williams requesting to set aside judgement of the above indictment. The defendant alleges fraud upon the court in that he claims that a Grand Jury was never convened on February 19, 2002, the date his indictment was true billed.

The defendant was present for the hearing. The State was present and represented by Betty C. Strom, Deputy Solicitor for the 13<sup>th</sup> Circuit Solicitor's Office.

Upon hearing from the defendant and consideration of the filed pleadings, I find that the defendant's motion is without merit and is hereby DENIED.

So Ordered this 5 day of May, 2017.



Honorable Letitia H. Verdin  
Chief Administrative Judge, 13<sup>th</sup> Circuit

Greenville, SC

# Grand jury pace draws criticism

Panel typically weighs 900 indictments per day; questions raised over its effectiveness

STAFF WRITER

palongi@greenvillenews.com

Each time the Greenville County grand jury meets, it considers about 900 indictments in a single day.

The group of 18 citizens went through 7,321 charges from Jan. 1 to Aug. 31 and returned indictments on all but one, according to the Greenville County Clerk of Court's Office.

The grand jury system was set up as a check against prosecutorial vendettas and hasty indictments. But with the grand jury blazing through so many cases, some have raised questions about how effective the panel can be.

Furman University political science professor Don Aiesi called the grand jury a "rubber stamp" for the Solicitor's Office. "The system isn't working," he said. "It has not functioned effectively as any kind of buffer."

Thirteenth Circuit Solicitor Bob Ariail said the grand jury hears about two-thirds of the cases that pass through his office. The panel rarely refuses to indict because solicitors weed out the weak cases and dismiss them, he said.

"We don't take junk to the grand jury," Ariail said.

The grand jury's job is to hear the state's evidence and decide if there is probable cause to hold a trial. Unlike most hearings in the criminal justice system, the defendant has no right to be present, have counsel or introduce evidence.

The Solicitor's Office doesn't oversee the grand



"We don't take junk to the grand jury."

— Bob Ariail  
13th Circuit Solicitor

jury. The panel reports to Chief Administrative Judge Gary Hill, who declined comment, citing judicial ethics.

Defense attorney Stephen Henry said he has been arguing in some cases that indictments should be quashed because of how many cases are run through the system. But the grand jury is a secret process, he said, making his argument tough to prove.

"If I could bring in one grand jury foreman to testify under oath, I think all this would be over," Henry said.

The county's grand jury meets once a month. Panel members start hearing cases at 9 a.m. and usually finish by 6 p.m., although they wrapped up at about 3:45 p.m. last month, Ariail said.

The grand jury has given solicitors specific instruc-

See **JURY** on page 3A

## JURY

FROM PAGE 1A

tions on what it wants to know, Ariail said. Solicitors have communicated those instructions to law enforcement officers who present cases to the grand jury, he said.

In DUI cases, for example, the jury may want to hear only about "where the stop took place, what the bad driving was and what the Breathalyzer is," Ariail said.

"Bam, bam, bam — you're talking three seconds to present these cases," he said.

antees defendants a grand jury hearing in federal cases, but the U.S. Supreme Court has said that states can use a different system, said Andrew Siegel, assistant law professor at the University of South Carolina.

Even with the option, there often is little support for eliminating grand juries at the state level, he said.

Solicitors like them because they are friendly to the prosecution, Siegel said. Defense attorneys see grand juries as a check on prosecutorial power, at least in some cases, and there is no guarantee they would be replaced with anything better, he said.

you treat the grand jury as archaic and do away with it," Siegel said, "or take steps to reinvigorate the grand jury."

State Sen. Ralph Anderson, D-Greenville, pledged in an interview with *The Greenville News* to learn more about the grand jury and consider legislation before the Legislature reconvenes in January.

Until he was contacted by *The News*, he didn't know about the grand jury's workload or the high percentage of indictments it returns.

"It can't be fair," said Anderson, a member of the Senate Judiciary Committee.

Paul Alonai can be reached at 298-

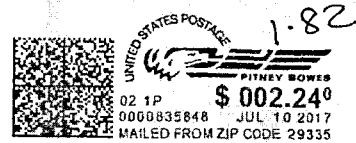


Jerome Williams SCDE# 215559

Tyger River Correctional Institution

200 Prison Rd. Unit 3-224

Enoree, SC 29335



South Carolina Court of Appeals  
P.O. BOX 11629  
Columbia, SC 29211

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