

Honorable V. Claire Allen  
Deputy Clerk

9-12-17

Dear Ms. Allen, hello how are you? I'm writing to you in regards to your correspondence dated 8-16-17, a portion of your correspondence I have a problem understanding, and I appeal to you for clarity... "the portion of myself being represented by counsel in this matter, no action will be taken on this pro se filing". I would like the name of Counsel as well as contact information who represents me in this matter, please. As I have stated in prior correspondence that I feel as though Attorney Timothy Lee Griffith will prejudice my efforts to appeal, as his ineffectiveness is one of the many reasons I appeal the courts decision. I, under no circumstance wish to be represented by Mr. Griffith on my appeal for various reasons. I await your correspondence pertaining to the name and contact information of Counsel who will be representing me on my appeal, and I thank you greatly for your time involving this matter, please enjoy your day, thanking you again kindly in advance.

Sincerely  
Emory W. Roberts Jr.

P.S. Providing that Mr. Griffith is not representing me, and in fact someone else has been appointed in my appeal defense, will you please kindly see that our Counsel receive all prior correspondence as well as this correspondence (Papers/evidence) as well as sending me Contact Info?

Thank You!  
Enjoy

cc: Timothy Lee Griffith, Esq  
Honorable Mary G. Baker  
(2:17-cv-00453-RMG-MGB)

**RECEIVED**

SEP 20 2017

SC Court of Appeals

For purpose of Appeal: Failure Of Subject Matter Jurisdiction Of A State Grand Jury.  
(The State v. Emory W. Roberts, Appellate Case No. 2017-001676) (9-12-17)

Facts supporting state grand jury's jurisdiction must be set forth in the indictment. Count One - Trafficking in illegal drugs (Heroin, 28 Grams or more) (Conspiracy) S.C. Code Ann. § 44-53-370 in Case No. / Indictment 2016-GS-47-02 dated April 12, 2016, Appellant asserts a failure of subject matter jurisdiction, and contends the State failed to show the offense affected any other county than Berkeley County. In a 16-Count indictment, Counts 2 through 16 offenses all occur in Berkeley County, thus not supportive of Count 1 alleging significance in more than one county of this State.

"While state grand jury may properly return indictment alleging single-county offense, such a charge conveys subject matter jurisdiction only when offense has multicounty significance"... Again, all offenses in/alleged in indictment occurred in Berkeley County, "to require only that the indictment allege multi-county significance to convey jurisdiction to the State Grand Jury would subvert the clear intent of S.C. Code Ann. § 14-7-1630(A)(1) (Supp. 1994)." State v. Evans, 319 S.C. 320 (1995), "14-7-1630(A)(1) clearly provides the state grand jury has jurisdiction over crimes involving drugs only where the crimes are of multi-county nature or have transpired or had significance in more than one county of this State." Also, in violation of S.C. Const. Art. 1 § 11, defendant was illegally seized from his home in Berkeley County and brought and held to answer for crimes in Richland County, Columbia, the State Grand Jury having no jurisdiction 2-8-17/2-9-17, and Judge (5th District) having no authority based on the statewide jurisdiction of a State Grand Jury to issue search warrant in the (9th District), and clearly not in accordance with § 14-7-175D, Act. 15. ↓ other side

(2)

In respect/regards to Count 1, The State cannot bootstrap alleged multi-county (Berkeley/Dorchester) significance to an indictment which does not already meet the requirement. Facts supporting state grand jury's jurisdiction must be set forth in indictment. Further, State Cannot bootstrap alleged multi-county significance to cover for the Constitutional Violation of Article 1 § 11. "No person may be held to answer for any crime the jurisdiction over which is not within the magistrates court, unless on presentment or indictment of a grand jury in the county wherein crime shall have been committed". From Feb. 8, 2016 to June 9, 2016 defendant was booked, charged & arraigned and held to answer for crimes the jurisdiction over. Defendant contends that State Grand Jury did not have jurisdiction over defendant in violation of constitutional law and due process violations immediately prior to alleged "indictment" dated April 12/13, 2016. Defendant, OR defendants were not charged in Dorchester County, nor had any facts supporting state grand jury's jurisdiction been set forth in indictment in any alleged offense or court proving multi-county significance, or impacted upon any other county than Berkeley County. Thus, Defendant contends the State Grand Jury lacked subject matter jurisdiction, thereby rendering indictment fatally defective. 319 S.C. 320 Court of Appeals of South Carolina Certiorari Granted Aug. 24, 1995. Count 1 of indictment (Conspiracy) is not tied to any "alleged" crime or offense charged in indictment relating to Dorchester County, thus showing that "alleged" crimes in a 16 Count indictment only impacted upon Berkeley County <sup>and</sup> not having multi-county significance. (See Indictment)

(2:17-cv-00453-RMG-MGB)

January 20, 2016 and served on Petitioner on February 8, 2016. (Attached). Petitioner's arrest warrant for Trafficking in Heroin greater than 28 grams was issued on February 9, 2016 and served on Petitioner on February 9, 2016. (Attached). Petitioner's initial appearance and bond hearing was on February 9, 2016 before Judge Clifton Newman where bond was denied by Judge Newman. Petitioner was originally detained at the Alvin S. Glenn Detention Center. Petitioner was indicted by the South Carolina State Grand Jury for Trafficking in Heroin greater than four (4) grams but less than fourteen (14) grams on April 13, 2016. (Ind. # 2016-GS-47-03). (Attached). Petitioner was indicted by the State Grand Jury for Trafficking in Heroin twenty-eight (28) grams or more, Distribution of Heroin, Distribution of Heroin, Distribution of Heroin, Trafficking in Heroin fourteen (14) grams of heroin but less than twenty-eight (28) grams, Possession of a Firearm During commission of or Attempt to Commit a Violent Crime, and Possession with Intent to Distribute Methamphetamine (Ind. # 2016-GS-47-02, Counts 1, 11-16) on April 13, 2016. (Attached). Petitioner was appointed counsel on May 18, 2016. (See Order Appointing Counsel, May 18, 2016. (Attached). Petitioner was represented by Eleanor Cleary, Esquire on the charges. Ms. Cleary served the Respondent with Discovery requests on June 7, 2016. (Motion for Discovery and Disclosure of Evidence, June 7, 2016). Petitioner was transferred from the Alvin S. Glenn Detention Center to the Berkeley County Detention Center on June 9, 2016, apparently because of the venue of the charges. Ms. Cleary was relieved as counsel on November 18, 2016. (Order Relieving Counsel, attached). Substitute counsel was appointed on November 21, 2016. (Order Appointing Counsel, November 21, 2016, attached). Petitioner is now represented by Timothy Griffith, Esquire. Mr. Griffith filed a Notice of Appearance and Discovery Request per Rule 5, SCRCrimP, Brady & Edwards Notice, Diamond Motion on November 18, 2016. (Attached). Counsel moved for a mental or competency

violation  
Art. 15.11

Not in accordance  
with provisions  
of Article 15.

evaluation on January 26, 2017 (Motion, attached), and that motion was granted by the Presiding Circuit Court Judge. (Order, dated February 16, 2017). Petitioner's bond was set at \$250,000 surety bond (10%) on **May 4, 2016**. (Order Setting Bond). [Petitioner does have a bond set; however, Petitioner is unable to make bond.] (See Order of Bond, attached). Petitioner's current counsel did move for reconsideration of bond on December 19, 2016. (Attached).

Petitioner has a lengthy prior criminal record from the State of New York. (See Attached N.C.I.C. Report). Petitioner was previously convicted in New York for: "Menacing 2<sup>nd</sup> Degree, Weapon"; "Petit Larceny"; "Attempted Petit Larceny"; "Assault 3<sup>rd</sup> Degree, with Intent to Cause Physical Injury"; "Tresspass"; "Criminal Possession of a Controlled Substance-5<sup>th</sup>, Intent to Sell"; "Criminal Possession of a Weapon-3<sup>rd</sup>"; "Aggravated Harrassment-2<sup>nd</sup>"; "Criminal Mischief-Intent to Damage Property"; "Assault 3<sup>rd</sup> Degree with Intent to Cause Physical Injury"; "Criminal Contempt"; "Aggravated Criminal Contempt/Violation of Order of Protection-Cause Physical Injury"; "Criminal Contempt-2<sup>nd</sup> Degree"; "Criminal Trespass-3<sup>rd</sup> Degree"; "Criminal Trespass 3<sup>rd</sup>-Property Fenced or Enclosed." According to Petitioner's NCIC Report, he also has numerous other arrests in New York and has served jail and prison sentences there. As a result, Petitioner is a flight risk and a danger to the community.

**ATTACHMENTS**

Arrest Warrants

Indictments

Order Appointing Counsel, May 18, 2016

Motion for Discovery, June 7, 2016

Order Relieving Counsel

Order Appointing Counsel, November 21, 2016

No search  
warrant  
or  
Inventory  
sheet

Notice of Representation and Discovery Request

Motion for Mental or Competency Exam

Order for Mental or Competency Evaluation

Order of Setting Bond

N.C.I.C. Rap Sheet

Motion for Bond Reconsideration

No Search  
Warrant  
or  
Inventory  
Sheet

**FEDERAL HABEAS GROUND**

Summarizing the federal habeas petition, Petitioner alleges he is being held unlawfully in that he was never served with his warrant; he was not arraigned; he was not indicted by a grand jury; he does not have a bond; does not have counsel, has been denied habeas corpus by the state circuit court, and is being denied his right to a speedy and public trial. Petitioner alleges because of the above, he is being denied his due process rights. (See Petition).

**THE LACK OF MERIT OF PETITIONER'S CONTENTIONS**

Petitioner's federal habeas petition brought pursuant to Section 2241 must be dismissed. Petitioner was lawfully arrested on two (2) arrest warrants for Trafficking in Heroin. Petitioner's initial bond hearing was on February 9, 2016 before Judge Clifton Newman. Petitioner was indicted by the State Grand Jury in two (2) separate indictments for multiple charges including Trafficking in Heroin, Possession of a Weapon During a Violent Crime, Distribution of Heroin, and Possession with Intent to Distribute Methamphetamine on April 13, 2016. (Attached). As a result, the State Grand Jury has determined there is probable cause to charge Petitioner with the crimes with which he is indicted. Petitioner is being held on lawful criminal indictments. Petitioner is represented by counsel on the indicted charges. (Order Appointing Counsel, November 21, 2016 attached). Petitioner was previously represented by another attorney. (Order



2:17-CV-00453-RMG-MGB

MARY P. BROWN  
CLERK OF COURT  
BERKELEY COUNTY

GENERAL SESSIONS COURT  
POST OFFICE BOX 219  
MONCK'S CORNER, SOUTH CAROLINA 29461-0219  
(843) 719-4400 (843) 567-3311 (843) 723-3800

TO: Emory Roberts  
RE: Jurisdiction

The enclosed document is being returned for the following reason(s):

- This Order needs to be sent to Berkeley County General Sessions Administrative Judge for Signature.
- Requires original signature.
- This document is a copy. We must file original.
- We do not do criminal records check.
- This is not a Berkeley County Case.
- Please provide case number.
- Attached is the requested information.
- Contact Court Administration for transcript at the following address:  
1220 Senate Street, Suite 200, Columbia, SC 29201-3739
- Information may be obtained from our web-site at [www.berkeleycountysc.gov](http://www.berkeleycountysc.gov).

Other SLED has jurisdiction over  
you. We here @ the Clerk office  
have no info. You need to contact BCSO.

Please make the necessary corrections and return this document for filing.  
Thank you for your assistance.

Staff Initials PL

Date 7-16-16

MARY P. BROWN  
CLERK OF COURT  
BERKELEY COUNTY, S.C.

2016 JUL -6 AM 11:25

*PL*  
**FILED**

(For The Purpose Of Appeal/Vacating Of Sentence)

On this Order Setting Bond, there exist "2 Case No": 2016-GS-47-02/And 2016-GS-47-03 dated: Feb. 9, 2016 & Filed Feb. 9, 2016, And also a surety Bond in the amount of \$ 250,000 set on the date of May 4, 2016...

Point 1.) At Initial "Arrestment" on Feb. 9, 2016, it was said that I may or may not be charged with "the guns"...

Point 2.) In this order setting bond, there's no charges of Distribution Of Methamphetamine; no charges of Distribution of Heroin; or the Possession of A Firearm During Commission of or Attempt To Commit A Violent Crime. Basically, according to the "alleged" indictment: Count Eleven, Count Twelve, Count Thirteen, Count Fourteen, and Count Fifteen...

Final Point: In this order setting Bond dated Feb. 9, 2016/Filed Feb. 9, 2016 According to this order setting Bond, Defendant is only charged with the crime of (Trafficking Heroin Greater Than 28 Grams) Nothing Else! Before And After date of "alleged" indictment (April 13, 2016) ← Indictment, And the date After alleged indictment, May 4, 2016 A surety bond of \$ 250,000 is Set!

"Initial Warrant" dated Feb. 8, 2016 (Trafficking 4-14 Grams) This order setting Bond Clearly shows only 1 offense charged, so according to this order setting bond - Before alleged indictment & After there was only 1 offense charged... Clearly if these other "items" were seized through the issuance of a valid search warrant, Defendant would have been initially charged, or at least "indicted"... this order setting bond after May 4, 2016 doesn't mention any other charges.

If an arrest warrant is issued as a result of an "indictment", the indictment will describe the charge and the elements of the crime in lieu of a sworn affidavit: This of course could not happen until after April 13, 2016, However there exist no valid warrants or indictment.

This Order Setting Bond Proves That A State Grand Jury On Feb. 8-9, 2016 had no jurisdiction, and S.C. Const. Art. 1 § 11 was violated, violating Defendants Due process. Also see: Filed 2016 JUL -6 AM 11:25 Mary P. Brown clerk of Court (Berkeley County General Sessions) letter claiming no jurisdiction Enclosed.

2:17-cv-00453-RMG-MGB) Hadnt been impaneled on Feb. 8-9, 2016, Not in accordance with provisions of Article 15. And in violation of S.C. Const. Art. 1 § 11

FILED

STATE GRAND JURY OF SOUTH CAROLINA  
IN THE COURT OF GENERAL SESSIONS

FEB 09 2016

JAMES R. PARKS  
CLERK, STATE GRAND JURY

Richland County

STATE OF SOUTH CAROLINA )  
)  
Plaintiff, )  
V. )  
)  
EMORY WARREN ROBERTS )  
)  
Defendant. )

CASE NO.: 2016 A 4700100018

2016-GS-47-02

2016-GS-47-03

(Due Process Violation)

ORDER SETTING BOND

This matter came before the Court on FEBRUARY 9, 2016, for the purpose of setting bond. The defendant is charged with the following offense(s):

Violation of Constitution Article 1, § 11

Arrested In Berkeley County

TRAFFICKING HEROIN GREATER THAN 28 GRAMS

After hearing from the defendant and the State, the Court finds it appropriate, and it is therefore Ordered, that:

- Bond is denied at this time with leave for defense counsel to file a written motion for bond. 2-19-16
- A Personal Recognizance Bond in the amount of \$ \_\_\_\_\_ is set at this time.
- A Surety Bond in the amount of \$ \_\_\_\_\_ is set at this time; and, the defendant is allowed to post 10%.
- A Surety Bond in the amount of \$ 250,000 is set at this time; and, the defendant is not allowed to post 10%. May 4, 2016
- Bond is reduced from \_\_\_\_\_ to \_\_\_\_\_ and docs/does not include other pending charges.
- Bond is concurrent/consecutive with existing bond in the amount of \$ \_\_\_\_\_.

It is hereby ordered that Bond is set with the following conditions (Defendant to initial by each paragraph below):

E.R. 1. The Defendant is not to leave the State of South Carolina.

A TRUE COPY  
Attest: James R. Parks, Clerk  
By: Margaret J. Selz  
Deputy Clerk

1 See Alleged Indictment dated 4-13-16 "State Grand Jury" on Feb. 8-9, 2016 had no probable cause or Jurisdiction.

- E.R. 2. The Defendant, at the request of the State, and at his/her own expense shall be subject to drug tests. Upon notification of a test, the Defendant shall appear at a facility designated by the State for drug testing.
- E.R. 3. The Defendant shall have no contact with any co-defendant, either directly or indirectly, without the prior permission of the Court.
- E.R. 4. I do/do not have a passport.
- E.R. 5. The Defendant shall not sell or encumber any property, personal or real, during the term of his/her bond, without the prior written permission of the South Carolina Law Enforcement Division.
- E.R. 6. The Defendant shall, within ten days of the date of this Order, advise the Clerk of Court, State Grand Jury in writing whether he/she intends to represent himself/herself, to retain counsel, or whether he/she desires to have counsel appointed, assuming that he/she meets the indigency requirements. If the Defendant desires to have counsel appointed, he/she should be screened for an appointment by the Clerk's Office of the State Grand Jury.
- E.R. 7. The Defendant shall appear at all scheduled hearings and at the trials of the above criminal charges and/or indictments.
- E.R. 8. The Defendant shall keep the Clerk of Court advised of his/her home address and telephone number so that notices of court hearings and trials may be sent to the appropriate location.
- E.R. 9. The Defendant understands that any future violation of any Federal, State, County, or Municipal Law will be considered a violation of the conditions of this bond and grounds for revoking bond.
- E.R. 10. The Defendant understands that he/she has the right to be present at the trial of his/her case that it is his/her responsibility to maintain contact with his/her attorney and the Clerk of Court in order to know the date that the trial of his/her case is scheduled for. The Defendant further understands that this Order acts as a notice of his/her right to be present at trial, and that the trial will proceed in his/her absence upon a failure to attend the Court.
- E.R. 11. Bond shall be secured by sufficient surety in the form and matter prescribed and approved by the Clerk of Court. The underwriting insurance company, if any, shall list the collateral for the bond with the Clerk of Court in addition to providing an appropriate power of attorney between the bondsmen and the insurance company. Bond shall be secured by sufficient surety in the form and matter prescribed and approved by the Clerk of Court.

E.R. 12.

House Arrest. The Defendant shall not leave his residence during the hours of \_\_\_\_\_ p.m. until \_\_\_\_\_ a.m. with the exception of the following appointments: Work, attorney appointments, church attendance or medical appointments.

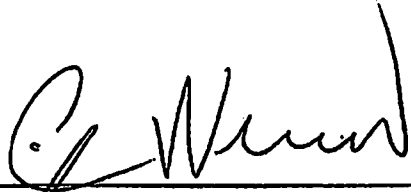
E.R. 13.

GPS Electronic Monitoring\*. The Defendant is ordered to be on GPS/Electronic Monitoring at his/her own expense. Defendant must be connected to the device upon their release from jail. The company must be approved by the Clerk's Office for the State Grand Jury.

E.R.

\*Weekly Reports must be submitted to the Clerk's Office for the State Grand Jury.

IT IS SO ORDERED.



PRESIDING JUDGE  
FIFTH JUDICIAL CIRCUIT

Feb. 19, 2016

I have read and understand the terms and conditions of my release under this Order.

May 4, 2016  
(Date)

Emory W. Roberts  
Defendant

I have read and understand the terms and conditions of this Order.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Surety

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Surety

*\*If you have questions about your bond, please call the Clerk of Court's Office for the State Grand Jury at 803-734-0497.*

(2:17-CV-00453-RMG-MGB)



**S. C. DEPARTMENT  
OF PUBLIC SAFETY**

Communications Office

P.O. Box 1993 • Blythewood, S.C. 29016  
Tel: (803) 896-7759

MR. EMORY ROBERTS JR.  
HILL FINKLEA DETENTION CTR  
300 CALIFORNIA AVENUE  
FACILITY NO. 2016003071  
MONKS CORNER, SC 29461-

01/25/2017

Request Number : 1701218

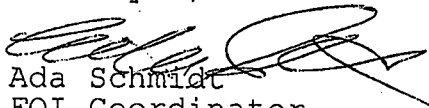
RE: PART VI . DISCOVERY / INDICTMENT

DEAR MR. ROBERTS

The Department of Public Safety found no records pursuant to your request.

If you have any questions, please call me at (803) 896-7759.

Thank you,

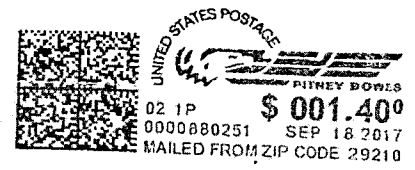
  
Ada Schmidt  
FOI Coordinator  
South Carolina Department of Public Safety  
Communications Office  
foia@scdps.gov

mory w. Roberts 373 393 F-3 263

Mailroom  
Kirkland Correctional Institution  
4344 Broad River Road  
Columbia, S.C. 29210

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SEP 20 2017  
SC Court of Appeals



LEGAL  
MAIL  
ONLY

RECEIVED

SEP 18 2017  
KIRKLAND R&E CENTER  
MAILROOM

Honorable V. Claire Allen  
Deputy Clerk  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, S.C. 29211