

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Thomas E. Cooper, Circuit Court Judge

State of South Carolina Respondent

v

Cedric L. Woods #265789 Appellant

INITIAL BRIEF OF APPELLANT

Case No 2016-002367

RECEIVED

OCT 03 2017

SC Court of Appeals

Cedric L. Woods #265789
Pro se Appellant
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STATEMENT OF ISSUE ON APPEAL

1. Did the Solicitor of the Second Judicial Circuit Aiken County South Carolina commit procedural error by unlawfully impaneling the County's Grand Jury outside the Statute of Law S.C. Code § 14-5-630(1)?

STATEMENT OF THE CASE

The Appellant was indicted by the Aiken County Grand Jury for Criminal Sexual Conduct First Degree, Kidnapping, Burglary First Degree, Attempted Armed Robbery, and four (4) counts of possession of a weapon during the commission of a violent crime. The jury convicted the Appellant of Assault and Battery of a High and Aggravated Nature, Kidnapping, Burglary First Degree and Attempted Armed Robbery. The jury found the Appellant not guilty on all four (4) counts of possession of a weapon during the commission of a violent crime. The Honorable Thomas W. Cooper, Jr. sentenced the Appellant to thirty (30) years for Burglary First Degree, ten (10) years for Assault and Battery of a High and Aggravated nature to run consecutive to the Burglary sentence; twenty (20) years for the Attempted Armed Robbery, concurrent, and thirty (30) years for Kidnapping, concurrent.

FACTS

The Solicitor of the Second Judicial Circuit, Aiken County, South Carolina, did unlawfully impanel and convene the Aiken County Grand Jury during the months of February and April in the year 2000; outside of the specified mandated terms of the General Sessions Court as set forth within S.C. Code §14-5-630(1) which is codified by S.C. Code §14-9-210; and in/by doing so thereby produced invalid and fraudulent instruments of indictment against the Appellant.

I ARGUMENT

Because the Respondent's representative, the Solicitor of the Second Judicial Circuit Aiken County, South Carolina, failed to comply with the laws of South Carolina S.C. Code Ann. §14-9-10, and §14-5-630(1) and did unlawfully impaneled a Grand Jury in Aiken County South Carolina and indicted by vote of the unlawfully impaneled, the whole proceeding from the fraudulent Bill to the Appellant's committal to his present custody is challenged as void in law.

ARGUMENT

The Appellant contends and asserts that the Aiken County Solicitor committed a procedural error, and fraud upon the Court, Second Judicial Circuit Aiken County, by unlawfully impaneling its Grand Jury outside of the Legislated Statute of Law SC Code Ann. §14-5-630(1). This establishes the thesis of lack of subject matter Jurisdiction. The opinion of the South Carolina Supreme Court in Ex parte Lilly, 75C 372 (1876), as given by Chief Justice Moses, and Justices Wright and Willard in concurrence, "Where the term of a Circuit Court, as fixed by law, has expired, the Judge has no power... to continue it's existence convene it at another time and proceed to the trial of the case." As this is absolute for a Judge, so it is also applicable to the County Solicitor, in the terms and sense of convening a Grand Jury and session or term of Circuit Court.

This fraud committed upon the Court by the Solicitor, establishing such procedural error and creating the lack of subject matter Jurisdiction of the Court by the unlawful impanelment of the Grand Jury outside the jurisdiction of the law and Court of General Sessions Second Judicial Circuit violates the South Carolina Constitution Art I §3, and the U.S. Constitutional Amendment FOURTEEN (14), both of which expressly detail due process and equal Protection of laws.

The equal protection Clause in this section of the South Carolina Constitution means that no person or class of persons shall be denied the protection of laws enjoyed by other persons or classes. (See Harrison v Caudle, 141 SC 407 (1927))

This section of the South Carolina Constitution is in place to ensure that the laws of South Carolina as enacted and set in place are applied to all equally. The State has broken and violated its own law, therefore prejudicing the Appellant by denying him equal protection of law in and by permitting him to be indicted, tried and convicted before a South Carolina State Court of law based on a procedural error and fraud of and by the state's officer of the Court in place -

Based on this same principle and circumstance of events, the three justices in Lilly, *id* ruled "In our judgement the proceedings by which the prisoner has been convicted and committed to the Penitentiary is without legal authority." As the case of Lilly, *id* presents, the indictment, and true billing, trial convening of the Grand Jury, all were done illegally, and without legal authority.

South Carolina Code Ann § 14-9-210 sets forth the jurisdictional requirements for the legal convening of a County/Circuits Grand Jury stating it shall be during the terms of the General Sessions Court for that County/Circuit. As cited in Lilly, *id* "Full and ample provisions have been made for ... terms of the Court of General Sessions and Common Pleas in aid of the expeditious disposition of all business which may be brought before them ... Continuing each Court of a Circuit in session from day to day until the time fixed by law for its next meeting is inconsistent with the statutes which prescribe the time to be allotted..."

The terms of the General Sessions Circuit Court for the Second Judicial Circuit, Aiken County are unambiguously mandated in S.C. Code Ann. § 14-5-630(D) as the Second Monday in January for two (2) weeks, first Monday in May for three (3) weeks and the

first Monday in October for two (2) weeks. The Aiken County Solicitor and Grand Jury of the Second Judicial Circuit did not adhere to or comply with these statutes of law, as the offense of the Appellant was tried and convicted upon the basis of fraudulently obtained indicting instruments/documents bearing February and April 2000 dates. In this case of the Appellant, the record shows dates of: 1) February 24, 2000 as a hand written not stamped "True Bill" with Foreperson's signature. This same instrument "of the State and Court" shows in the body a February 28, 2000 date as "... a Court of General Sessions Convened on February 28 2000 the Grand Jurors of Aiken County Present upon their oath ..." (emp. added), indicating the Circuit Court was convened / in "term" or "session" and swearing upon their oath the Grand Jurors of the Second Judicial Circuit Aiken County heard testimony of the witness and voted to indict the Appellant on that date, outside of the terms of mandated Statutory law AND four (4) days AFTER the instrument had been hand written and signed on February 24 as true Billed. It is literally impossible for the Appellant to be True Billed indicted four (4) days prior to the Grand Jury's convening, and even if in the terms of the statute, shows an intentional fraud upon the Court. (See Exhibit 1 of 2 front and back).

2) March 30 2000 as a hand written - not stamped "True Bill" with Foreperson's signature. This same instrument "of the state and Court" shows in the body a APRIL 10 2000, date as "... a Court of General Sessions Convened on April 10 2000 the Grand Jurors of Aiken County Present upon their oath ..." - This.

Just as the aforementioned has been obtained by fraudulent pretense, and ELEVEN DAYS prior to the alleged "convening", was True Billed by hand-written markings and signature of foreperson of the Grand Jury. (See Exhibit 2 of 2 front and back).

These exhibits confirm a blatant and flagrant disregard for the laws of South Carolina, and as well the procedural errors and fraudulent obtaining of the Appellant's indictment and conviction which now has obligated the Appellant to a unlawful incarceration as well as the collateral consequence of a statutory mandated sex registry affiliated with a charge of kidnapping even though there were no sexual findings of any sort connoted.

This registry requirement rest on an unreasonable basis. The state failed to produce any scientific and/or biological evidence proving that the Appellant committed any act requiring such registry, as DNA test / kit results proved negative. It was ruled in Hendrix v Taylor, (SC 2003) 353 SC 542 that "a registration requirement should rest on a reasonable basis under the equal Protection Clause of due process," (emph. added).

In light of this, the thesis of the Court not having subject matter jurisdiction, or jurisdiction period / at all, becomes applicable as the Court had no legal authority to hear, try and convict the Appellant as the indicting instruments were obtained by false, fraudulent and contemptuous

pretense by the State of South Carolina, Aiken County Second Judicial Circuit. This is a clear and unambiguous violation of South Carolina law and South Carolina Constitutional Law Art. I §3, Due Process, and US Constitutional Amendment FOURTEEN (14) Due Process and Equal Protection.

As established in the aforementioned, S.C. Code Ann. § 14-9-210 and § 14-5-630(i) are clearly jurisdictional statutes of law in South Carolina and set forth mandatory procedures to be utilized by the State and Solicitor for the lawful return of a TRUE BILL indictment. A substantial body of South Carolina Court rulings and case law hold that a failure to comply with statutory law jurisdictional in nature deprives the Court of subject matter jurisdiction. See State v Brown, 351 SC 522, State v Lofton 76 SC 48, and State v Castleman, 219 SC 136.

Black's Law Dictionary defines "subject matter jurisdiction" as "Jurisdiction over the nature of the case and type of relief sought; the extent to which a court can rule on the conduct of persons or the status of things."

In keeping with the mandated legislated intent of SC Code Ann § 14-9-210 and § 14-5-630(i), the Solicitor and/or State has no jurisdiction to issue/return nor authority to manifest and or produce a true billed indictment except during a time when the Circuit Court of General Sessions is lawfully convened to oversee the Grand Jury process. Any action(s) of such a nature taken outside of the aforementioned statutory regulatory laws would by necessity be deemed illegal, null and void.

The South Carolina Supreme Court has determined that "no indictment may be true billed by a Grand Jury when the Court lacks jurisdiction. The Grand Jury must be impaneled under the jurisdiction of the Court of General Sessions before a lawful indictment can take place.", as ruled

in State v Wheeler, 1868 WL 2624.

The Appellant has established by the attached exhibits evidence that the state of South Carolina, Solicitor Aiken County, unlawfully impaneled it's Grand Jury outside the terms and jurisdiction of the Second Judicial Circuit Aiken County Court of General Sessions and did willfully print and publish a fraudulent indictment instrument against the Appellant.

The Legislature of South Carolina did not enact a provision in SC Code Ann 14-5-630(i) for a term of General Sessions Court for February, March, or April. By the dates on the indicting instruments, the Solicitor of Aiken County impaneled it's Grand Jury in the Court of Common Pleas which has no authority to act upon Criminal indictment (s) or it's processes to return a true bill criminal indictment. See South Carolina Constitution Art V § 1, and Dove v Gold Kist Inc. 314 SC 235.

By the South Carolina Statute of Law § 14-5-630(i), only the Court of Common Pleas, Aiken County shall be held on the Fourth (4th) Monday of February for a term of two (2) weeks. This confirms the indictment for Kidnapping as having been done by Common Pleas Court term, as by Perpetual Calender the year 2000, the fourth Monday of February is the date of the 28th. (See exhibit 1 of 2)

The same is true for the Appellant's indictment for Possession of Firearm or Knife during Commission of or attempt to commit a violent crime. SC Code Ann. § 14-5-630(i) stipulates Common Pleas Court Convening on the Second Monday in April

for one (1) week. This indictment of April 10 2000 was done on the Second Monday. This again confirms indictments were hand down during terms of the Common Pleas Court of Aiken County rather than General Sessions as required by law; and both were hand written as True Billed four, (4), and eleven (11) days prior to a "Convened Grand Jury" respectively.

In Gaither v United States, 413 F2d 1061 the Court ruled that "twelve (12) jurors must vote upon the indictment to render a valid indictment and True Billed instrument". Based on the evidence as displayed in both exhibits the Foreperson made a conscious decision to sign and True Bill a legal instrument fraudulently prior to any Grand Jury, and indict the Appellant outside the presence of a full Grand Jury Panel.

As ruled in Pringle v State, 287 SC 409 (1986), the Stamped application of True Bill on the indictment form was taken as conclusive proof that the twelve (12) member Grand Jury Panel had voted to indict the defendant. "In the instance of the Appellant, this cannot be determined as to the authenticity and validity of the instrument as the Foreperson of the Second Judicial Circuit Aiken County Grand Jury did commit fraud, obstruction of justice conspiracy to commit official misconduct and Contempt of Court by violating the aforementioned statutes of law, the Articles of the South Carolina Constitution, the United States Constitution and by violating and denying the Appellant's procedural due process and equal Protection rights.

CONCLUSION

When a Legislative enactment sets and determines the manner in which something may be done the enactment also evinces the intent that it shall not be done another way. Therefore, since the Second Judicial Circuit Court and Solicitor for Aiken County utilized an unlawful mode of procedure not allowed under SC Code Ann. § 14-9-210 as well as 14-5-630(i) regulating Aiken County General Sessions Court, the State and the Court lacked the requisite jurisdiction to complete and return a lawful true billed indictment and subsequent conviction and committal to incarceration.

For the reasons stated herein the Appellant request this Honorable Court grant the Appellant relief through and by vacating his conviction and sentence, removal of the mandated registry based on the procedural due process denial, lack of subject matter jurisdiction, denial of equal protection, the state's violation and non-compliance with South Carolina Statutory and Constitutional law and in the interest of justice.

Respectfully submitted,

Cedric L Woods

Cedric L Woods

September 28, 2017

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State of South Carolina

Respondent

v

Cedric L. Woods #265789

Appellant

PROOF OF SERVICE

I, Cedric L. Woods #265789, pro se Appellant, certify that I have served the Initial Brief of Appellant on the Respondent, the South Carolina Attorney General's Office, Attorney for Respondents, by depositing a copy of same in the United States Mail, using the mailroom services as provided by/at the South Carolina Department of Corrections' Allendale Correctional Institution, 1057 Revolutionary Trail, Fairfax, South Carolina 29827, First-Class Postage Pre-Paid, addressed to: The South Carolina Attorney General's Office, P.O. Box 11549, Columbia S.C. 29221-1549, on September 28, 2017

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September 28 2017

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Clerk of Court
PO Box 11629
Columbia SC 29211

Re: Case No.: 2016-002367

State of South Carolina v Cedric L. Woods # 265789

Dear Honorable Clerk:

Enclosed for filing with the above referenced
is the Appellant's "Designation of Matter to
Be Included in the Record on Appeal".

The Respondent has been served as indicated
by and within the enclosed Proof of Service.

Thank you for your assistance in this matter.

Sincerely,

Cedric L. Woods

Cedric L. Woods
Prose Appellant

Encl.

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