

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

**RECEIVED**

NOV 28 2017

APPEAL FROM UNION COUNTY  
COURT OF COMMON PLEAS

**S.C. SUPREME COURT**

\_\_\_\_\_, Circuit Court Judge

---

c/A Case No. 2015-CP-44-00294

Appellate Case No. 2017-001529

---

The State of South Carolina,.....Respondent,

v.

Jeremy Lee Moody, #359801,.....Appellant.

---

APPELLANT'S PRO SE RESPONSE TO THE PETITION  
FOR WRIT OF CERTIORARI

---

Comes now, Jeremy Lee Moody, #359801, with the above entitled response to the petition for writ of certiorari filed by his relieved PCR Appeal Counsel. Appellant challenges the conviction and sentence concerning indictment numbers 2014-GS-44-0060 through 2014-GS-44-0066. Appellant maintains that he is being held in custody pursuant to a conviction and sentence in which the court lacked subject matter jurisdiction. Appellant would show this Honorable court the following:

APPELLANT'S FEDERAL EQUAL PROTECTION RIGHTS AND STATE CONSTITUTIONAL AND STATUTORY RIGHTS TO BE LAWFULLY INDICTED BY A GRAND JURY WERE DENIED TO HIM BECAUSE THE DEPUTY SOLICITOR UTILIZED AN ILLEGAL GRAND JURY, OUTSIDE THE JURISDICTION OF THE COURT OF GENERAL SESSIONS, WHICH DEPRIVED THE PLEA COURT OF SUBJECT MATTER JURISDICTION AND VOIDS THE INDICTMENTS AND CONVICTION AND CONSTITUTES PERJURY, CONSPIRACY AND AMOUNTS TO PROSECUTORIAL MISCONDUCT.

Appellant did not challenge this issue on direct appeal because it was not preserved for appeal in the plea court because the basis of any objection was purposefully hidden by the Deputy Solicitor at hearing.

Appellant contends that the State knowingly employed the use of an unlawful procedure for the return and publication of its alleged true-bill indictments. The State unlawfully empaneled its Grand Jury outside the jurisdiction of the Court of General Sessions, and then willfully caused false information to be printed in its indictments. In other words, Appellant was falsely indicted outside the jurisdiction of the Court of General Sessions and by a mode of procedure that the State had no lawful authority to adopt — resulting in depriving the Court of subject matter jurisdiction and Appellant's right to lawful true bill indictments before pleading guilty to felonies in any hearing outside of S.C. Code, § 14-5-820.

“The jurisdiction of a court over subject matter of a proceeding is determined by the Constitution, the laws of the State, and is fundamental.” State v. Heyward, — S.C. —, 564 S.E. 2d 379 (2002) (citing Anderson v. Anderson, — S.C. —, 382 S.E. 2d 897, 900 (1989)). “A trial court acquires subject matter jurisdiction to hear a criminal case by way of a legally sufficient indictment or a valid waiver thereof.” State v. Parker, — S.C. —, 543 S.E. 2d

255 (2001). Subject matter jurisdiction may not be waived even with consent of the parties, and may be raised at any time. Brown v. State, 343 S.C. 342 (2001).

Appellant contends that S.C. Code, § 14-9-210 requires that the County Solicitor prepare and submit bills of indictments through the presiding judge of the Court of General Sessions to a Grand Jury impaneled under the authority of the Court of General Sessions. NO EXCEPTIONS. Section 14-9-210's statutory terms are clear, unambiguous, must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand its operation and are jurisdiction in nature.

"No indictment may be true billed by a Grand Jury when the Circuit Court lacks jurisdiction, since the Grand Jury's jurisdiction is coextensive with criminal jurisdiction of the court in which it is to make inquiry..." State v. McClure, — S.C. —, 289 S.E. 2d 158 (1982); State v. Funderburk, — S.C. —, 191 S.E. 2d 520 (1972); and State v. Wheeler, 193 S.E. 2d 515 (1972).

S.C. Const. Art. I § 11 (No person may be held to answer for a crime... unless on a presentment or indictment of a Grand Jury...) and Art. V, § 22 and S.C. Code § 17-19-10 (2003) (No person shall be held to answer in any court for an alleged crime or offense, unless upon indictment by a Grand Jury...). A criminal defendant has a State Constitutional right to have the indictments issued by a legally constituted Grand Jury. State v. Means, op. No. 26105 (S.C. Sup. Court, filed Feb. 6, 2006); Evans v. State, — S.C. —, 611 S.E. 2d 510 (2005); State v. Williams, — S.C. —, 210 S.E. 2d 298, 301 (1974).

In the case sub-judice, the face of the alleged indictment numbers 2014-GS-44-0060 through 2014-GS-44-0066, falsely claim that there was true bills returned "at a court of General Sessions" convened on January 6, 2014 and that "the Grand

Jurors of Union county present upon their oath."

They are also signed by the Deputy Solicitor who by his signature is in agreement with these false claims.

However, the evidence presented below hereto, will conclusively establish that the State printed and published FALSE information in its indictments.

The Clerk of Court very clearly established that no special term of the Court of General Sessions was convened on January 6, 2014. Moreover, the South Carolina Court Administration, and the Judicial Department Circuit Court Calendar, for the County of Union and the Month of January proves beyond doubt that no de jure Court of General Sessions was convened on January 6, 2014 as falsely alleged in Appellant's null, void and fraudulent indictments.

If there were no de jure Court of General Sessions convened on January 6, 2014, then it would be physically impossible for a lawful Grand Jury to have been empaneled on that date. In other words, if the Grand Jury conducted business outside the scope and authority of the General Sessions court, then their actions are null and void because they lacked subject matter jurisdiction to true bill any indictments and any future actions on such indictments, including a hearing, conviction or sentence would likewise be null.

The Federal courts have come to the same conclusions, finding that a Grand Jury actions taken outside the scope of its statutory authority deprives the court of subject matter jurisdiction. U.S. v. Macklin, 523 F.2d 193, 195 (1975) (Finding Grand Juries true bill of indictment after their 18 month term had expired deprived them of subject matter jurisdiction). "A Grand Jury is a creature of statute." In re Mills, 135 U.S. 263, 267 (1890) and there can be no such thing as a de facto Grand Jury. U.S. v. McKay, 45 F. Supp. 1007, 1015 (1942).

The failure to follow statutes governing Grand Juries is not a "mere defect in the institution of the prosecution", but amounts to a "lack of jurisdiction." U.S. v. Fein, 504 F.2d 1170 (1974); Macklin, above, at 195. In Macklin, at Footnote 2, the court went to great lengths to explain the difference between circumstances where the court is deprived of subject matter jurisdiction and cases such as Evans v. State, — S.C. —, 611 S.E.2d 510 (2005), where a defendant challenges a defect which amounts to a mere irregularity and does not deprive the court of subject matter jurisdiction. Here, we are dealing with a statutory requirement that deprives the court of subject matter jurisdiction.

Therefore, recognizing the jurisdictional requirements set forth in § 14-9-210, mandating the only process allowed for impaneling a lawful Grand Jury, and considering the facts and evidence presented above, it becomes apparent that Appellant was indicted outside the jurisdiction of the court of General Sessions and by a mode of procedure that the State had no lawful authority to adopt — resulting in depriving the court of subject matter jurisdiction and Appellant's right to lawful true bills of indictments. Such actions on the part of the State renders its indictments, hearing, conviction, sentence and commitment orders a nullity. Accordingly, Appellant must be released from custody immediately.

For the reasons shown herein, Appellant moves that this Court initiate an official investigation into the misconduct and criminal violation of law, or, in the alternative, vacate the illegal sentence and order Appellant's immediate release.

Dated: November 17, 2017

Respectfully submitted,  
s/ Jeremy Moody  
Jeremy Lee Moody, #359801

PRO SE APPELLANT

Perry Correctional Institution  
430 Oak Lawn Road, Cell: Q4-A-202  
Pelzer, South Carolina 29669-8704  
(864) 243-4700

---

ADDRESS AND PHONE NUMBER OF  
PRO SE APPELLANT

**RECEIVED**

... 28 2017

**S.C. SUPREME COURT**

Jeremy Lee Moody, # 359801  
Perry Correctional Institution  
430 Oak Lawn Road, Cell: Q4-A-202  
Pelzer, South Carolina 29669-8704

Jms

RECEIVED

NOV 21 2017

PCI Mailroom

Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, South Carolina 29211

(CONFIDENTIAL)

(INTER-AGENCY)

LEGAL MAIL