

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Greenville County  
Court of General Sessions  
Chief Admin. Judge Hon.  
Letitia H. Verdin  
# 2017-001353

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SC Court of Appeals

The State

Respondent

VS

Jerome Williams

Appellant

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APPELLANT'S INITIAL BRIEF

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other counsel of record  
Alan McCrory Wilson  
John Benjamin Aplin  
P.O. BOX 11549  
Colg, SC 29211-1549

Jerome Williams  
Tyger River Corr. Inst.  
200 Prison Rd.  
U. 3. 224  
Evoree, SC 29335

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# TABLE OF AUTHORITIES

## CASES

Bowers v Bowers 403 SE2d 127	10
Chewing v Ford Motor Credit 579 SE2d 605	8
Evans v Gunter 366 SE2d 44	10
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12 Joseph T. McLaughlin Morris Federal Practice 60, 21. 4 (a) at 60-61	8
Savo Investments v Ocean Holiday Partnership 441 SE2d 835	8

## RULES

S.C.R. Civil P. - Rule 1	7, 12
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STATEMENT OF ISSUES ON APPEAL

(1) WHETHER THE COURT WAS REQUIRED TO ADDRESS APPELLANT'S 60 (b) ACTION AS A CIVIL MATTER AND TRANSFER HIS ACTION TO THE COURT OF COMMON PLEAS

(2) WHETHER THE COURT OF GENERAL SESSIONS LACK SUBJECT MATTER JURISDICTION TO RULE ON APPELLANT'S 60 (b) ACTION ITSELF

(3)

STATEMENT OF CASE

On June 19, 2002 in Greenville Co. Appellant Jerome Williams pled guilty to first-degree burglary and received a sentence of 30 years imprisonment in the South Carolina Department of Corrections. On 10-13-2014 Appellant moved to set aside the judgment of his criminal indictment thus his guilty plea pursuant to S.C.R. Civil P. - Rule 60(b)(3) and (5). This 60(b) action was mistakenly filed in the Court of General Sessions.

On May 12, 2017 Appellant appeared before Hon. Judge Letitia H. Verdin

(4)

to address his action. On May 15,  
2017 Judge Verdin denied Appellant's  
60 (b) action. On June 14, 17 Appellant  
filed his notice of appeal  
this appeal follows:

(5)

## ARGUMENT (1)

The court was required to address Appellant's 60 (b) action as a civil matter and transfer his action to the court of common pleas. Where Appellant mistakenly filed his 60 (b) action in the the court of General Sessions SEE: Ex B

arguing that his action involves Appellant's attempt to gain relief from the judgment and conviction and sentence entered against him on June 19, 2002. The rule 60 (b) (3) (5) S.C.R.C.P motion raises claim of a fraud upon the

(6)

court, resulting from acts of gross misconduct and criminal violation of the law, as perpetrated by Lora A. Reese, the Greenville County Assistant Solicitor, in office on Feb. 19, 2002, at the time the violations herein alleged arose.

It was very clear that Appellant's action was made for relief from judgment under S.C.R. Civil P. Rule 60 (b) (3): Where Rule 1, S.C.R. Civil P. govern the procedure in all South Carolina courts in all suits of a civil nature, it's clear that Appellant action should have been heard in the court of Common pleas.

Here Appellant's 60 (b) action rest within the sound discretion of the trial

"  
Court of common pleas. SEE: Savo Investments  
v Ocean Holiday Partnership 314 S.C. 116, 441  
SE2d 835; Thomas v Hammond 382 SE2d  
900. 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 Also see  
Chewing v Ford Motor Credit 579 SE2d 605  
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.

In this case, Williams bill of indictment prints that, at a Court of General Sessions, convened on Feb, 19, 2002, the Grand Jurors of Greenville Co. 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 Feb term 2002.

Although, Deputy Solicitor Betty C. Stoin submitted State's Exhibit A showing the Chief Administrative Judge for General Sessions in Greenville Co. order when they should have convene SEE: Exhibit A

Appellant argue that he presented clear evidence SEE: Exhibit 1 and Exhibit 2 that established that no court of General Sessions had in fact been open on the

indictments February 19, 2002 date of return. SEE: Exhibit 2 certified true copy ct. term calendar and Exhibit 1 clearly shows that no General Sessions Ct. had been open on the date in question. And, although Deputy Solicitor Ms. Strom submitted Exhibit A, there is no proof that the court convened on the date in question.

Therefore, Assistant Solicitor Reese's act can be said, subvert the integrity of the court in a way that was extrinsic fraud upon the court SEE: Evans v Gunter 366 SE2d 44

Here, Appellant met his burden of presenting evidence that proved the facts essential to entitled him to relief SEE: Bowers v Bowers 403 SE2d 127.

Wherefore, the court was required to address Appellant's 60 (b) action as a civil matter, and transfer Appellant's to the court of common pleas SEE: S.C.R. Civil P. - Rule 82 (b); SEE:

Ex. C; Ex D and Ex E; Tr.p 4 L 6 - p 6 - L 4. Which Appellant was not aware that his 60 (b) motion was being heard in the Ct. of General Sessions. Nor did the Ct let on. Tr.p 4 - p 13.

### ARGUMENT (2)

The court of General Sessions lack subject matter jurisdiction to rule on Appellant's 60 (b) action itself. When Appellant mistakenly filed his 60 (b) action in the court of General Sessions.

The Appellant argue that the court

of General Sessions was required to transfer his action to the court of common pleas per S.C.R. Civil P. Rule 82 (b); Which states in part: VENUE OF ACTION when an action is brought in the wrong county or in the wrong court, the court SHALL not dismiss the action but SHALL transfer it to any proper county or court in which it could have been brought. Also see: S.C.R. Civil P. Rules 1 and 2; Ex. C; Ex. D; Ex E.

Which the Court and Deputy Solicitor, Strom failed to bring up. And, the Appellant was not aware that his 60 (b) motion was being heard in the Ct. of General Sessions  
SEE p 4 - p 13

Wherefore, the court of General Sessions itself lack subject matter jurisdiction to rule on Appellant's 60 (b) action, in the Ct. of General Sessions.

### CONCLUSION

Based upon the foregoing arguments Appellant's case should be remanded back to the court of Common Pleas. And or back to the Ct. of General Session to be transferred to the Court of Common Pleas.

Respectfully submitted

Date:

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The State

vs

Respondent

Jerome Williams

Appellant

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CERTIFICATE OF COUNSEL

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The undersigned certified that this initial  
brief complies with Rule 208 SCACR.

Date: 2-5-18

st Jerome Williams

Jerome Williams

Typist R.C.I.

200 Prison Rd.

U.S. 224

Evree, SC 29335

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Appellant

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PROOF OF SERVICE

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I hereby certify that I have served the below persons  
my initial brief, designation of matter and certi-  
ficate of counsel and transcript. By placing the  
above said into the Ty. R.C.-I. mail room on this  
5 day of Feb-2018 to be placed in the U.S.

mail w/ postage prepaid  
The Hon. Clerk of Ct. of Appeals  
V. Claire Allen, Deputy Clerk  
P.O. Box 11629  
Columbia, SC 29211

Alan Wilson  
John B. Aplin  
P.O. Box 11549  
Columbia, SC 29211-1549

SWORN to before me  
this 5th day of February 2018

Lucy D. Roberts  
Notary Public

my Commission Expires March 24, 2027

Jerome Williams



The S.C. Ct. of Appeals  
P.O. BOX 11629  
Colo, SC 29211

Date: 2-5-18

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Re 2017-001353

Dear Hon. Deputy Clerk Allen

Please be advised, that on Jan 31, 18 I  
rec'd the Tr. Transcript from the Ct. reporter

Please find enclosed for filing the matters  
mention in my proof of service.

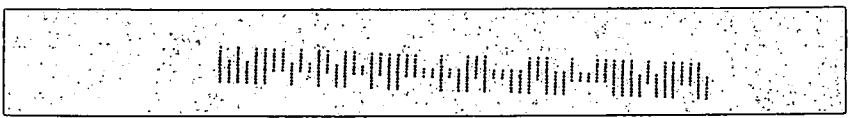
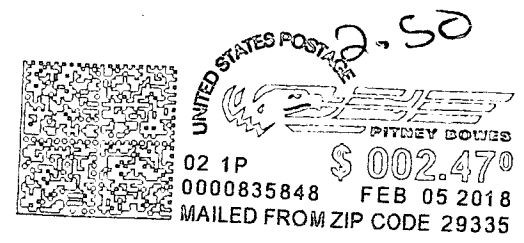
Would you be so kind as to return me  
back a filed copy of all matters.

Thanking you in advance, I remain

cc: personal file

Sincerely  
George  
Williams

Jerome Williams #213559  
Tiger River CORR INST UNIT-3 - 224  
200 Prison Rd  
Endree SC 29335



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TYRCI MAILROOM