

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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JUN 11 2018

SC Court of Appeals

APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

The Honorable Robert E. Hood, Circuit Court Judge

Appellate Case No. 2016-002367

Cedric L. Woods # 265789, ..... Appellant,

v.

State of South Carolina, ..... Respondant.

Appellant's Rule 208(b)(3) Reply to the State's Initial Brief

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## TABLE OF AUTHORITIES

### South Carolina Cases

Brown v. St., 449 SE2d 494, (1994)  
Evans v St., 611 SE2d 510, (2005)  
Ex Parte Lilly 7 S.C. 372, (1876)  
Ex Parte Littlefield, 540 SE2d, ~~(1999)~~<sup>(2002)</sup>  
St. v Rafe, 34 SE 660, (1900)  
St. v Rector, 155 SE 389, (1937)

### Federal Cases

In Re Winship, 90 S.Ct. 1068 (1970)  
U.S. v Olano, 113 S.Ct 1770 (1993)

### Other Authorities

Rule 208 (b)(3), SCARC

Due to a state-wide SCDC lock down after the incident at Lee Correctional resulting in the deaths of seven inmates this Appellant was unable to use the law library and research the State's response to his Appeal and file a reply pursuant to Rule 208(b)(3) in the allotted time. However, since then, the Appellant received on May 30, 2018, a letter from the Attorney General's Office to the Aiken County Clerk of Court and an Order Denying Motion to Alter or Amend Judgment in connection with this case. As such, this should automatically expand the time in which this Appellant has to make a reply as this Order affects the State's claimed Statement of Issue on Appeal II, in particular, as well as IV.

The Appellant will address issue II first, where the State asserts that the Appellant must challenge his conviction only through a PCR action and not through an appeal. This Appellant would point out in the above referenced Order denying his 59(e) motion, (see the attached letter and order of May 24, 2018 and May 21, 2018), where in the first line of the Order it states, "This matter comes before the Court by way of an application for post-conviction relief (PCR)... on June 16, 2016." Therefore, the State's issue II is moot because they have now converted the action to a PCR.

Additionally, this would also make their issue IV moot which would be moot anyway if this Court should agree with this Appellant.

As to issue I, the Appellant espouses that claims of subject matter jurisdiction may be raised at any time "even for the first time on appeal" and fraud upon the court has no time limitations. As such, no preservation of these issues is required.

As to issue III, the State argues *Brown v St.* 449 SE2d 494, (1994). *Brown* differs from this case in that he complained date discrepancies on two separate pages of his indictment and he did not challenge terms of court for the court of common pleas verses the terms for general sessions which was not statutorily mandated at the time and dates on the faces of the indictments in this case.

Brown states, "After the grand jury has deliberated it then reports its findings... to the court of general sessions." The Appellant has argued that the grand jury report could not have been made to the court of general sessions as the February 28, 2000 term and the April 10, 2000 terms were not for the court of general sessions but were instead the statutory terms for the court of common pleas and the two courts do not meet at the same times.

Furthermore, the court of common pleas which was statutorily mandated for those dates does not have any criminal jurisdiction and as was held in *Evans v St.*, 611 SE2d 510, (2005), and it is not co-extensive with any grand jury and this precedent should hold over Brown.

Additionally, the Appellant cannot find any court rule or statutory authority to allow a grand jury to report its findings to the court of common pleas or for that matter convene or report to a court of general sessions out of session. (See *Ex Parte Lilly*, 7 S.C. 372, (1876)) "Where the term of a Circuit Court, as fixed by law, has expired, the Judge has no power, by order, to continue its existence, convene it at another time, and proceed to the trial of cases."

The State has not cited any statute or court rule granting a grand jury any authority to meet or convene with a court of common pleas in which it would not be co-extensive with.

As to the State's claim of clerical error (on page 9 of its response), one or two days might justify a claim of clerical error, but four and ten days prior and the last day of the proceeding month cannot simply be a clerical or scrivener's errors. Also since all of these indictments are signed by the foreperson, this too strengthens the Appellant's claim of fraud. The foreperson is unlikely to have lost four days, let alone ten days.

In footnote 8 in *Evans*, the Court noted that in *Rafe* and in other cases requiring a showing of prejudice in challenging the legality of a grand jury, "[T]his Court has recognized the important role of the grand jury in the criminal justice system, as well as the impossibility of demonstrating prejudice due to the secret nature of the grand jury's deliberations and voting." It cites *Rector*,

155 SE 388-396, "[I+] is to demand demand the impossibility. It is to tell him that he must establish something, even if it be true, that he is powerless to have disclosed."

The State has access to documentation that could prove or disprove fraud which the Appellant could never access, yet it has chosen not to do so.

The State then argues that since the indictment was in writing and was published by the clerk that it is therefore valid. This is a non sequitur. Whether or not an indictment is published by the clerk does not prevent a fraudulent indictment. These discrepancies of dates raises the serious specter of fraud and the judiciary of this State have authority to nullify or set aside any indictment for just cause.

See *Ex Parte Littlefield*, 540 SE2d 81, (2002 ~~1990~~), "The judiciary is empowered to infringe on the exercise of prosecutorial discretion when it is necessary to review and interpret the results of the prosecutor's actions when those actions violate certain constitutional mandates. The judiciary can check prosecutorial discretion by dismissing flawed indictments, directing a mistrial of a case wrongfully brought or prosecuted, or directing a verdict for lack of credible evidence."

This last part, "lack of credible evidence," should also apply to Appellant's claim of plain error (Rule 52(b)), in that the required elements of a weapon to convict him for armed robbery and burglary first were not proven beyond a reasonable doubt as required by *Winship* because he was acquitted on all four of the weapons charges. As stated in his previous brief this meets all four prongs of the *Olano* test including the integrity and reputation of the judicial system. And also cumulative error can be ascribed to this case.

## Conclusion

(1) Subject matter jurisdiction does not require preservation, (2) the State has converted the Appellant's action to a PCR in its dismissal order, (3) Evans should take precedent and held that a grand jury is co-extensive only with a court with criminal jurisdiction and the court terms ascribed on the face of the challenged indictments were mandated by statute as terms for Aiken County Courts of Common Pleas which holds no criminal jurisdiction, (4) the State has cited no court rule or statute to rebut (3) above, nor have they shown any evidence to rebut the claim of fraud of which it would have access and the Appellant would not, as the State would have authority to access any documents to prove or to disprove fraud, and the State's last assertion is moot since the State has converted the action to a PCR.

For the above reasons and the assertions made in the Appellant's previous brief, the Appellant respectfully asks this Court to grant him relief by vacating his sentences and convictions and any other relief it deems appropriate.

Respectfully submitted

Cedric L. Woods

Cedric L. Woods

pro se

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN

) IN THE COURT OF COMMON PLEAS  
) FOR THE SECOND JUDICIAL CIRCUIT  
)  
)

Cedric L. Woods #265789,

) Case No.: 2016-CP-02-1406  
)

Applicant,

v.

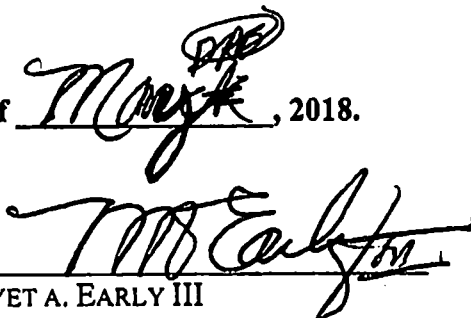
**ORDER DENYING MOTION TO  
ALTER OR AMEND JUDGMENT**


State of South Carolina,

Respondent.

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed by Cedric L. Woods (Applicant) on June 16, 2016. This Court filed a Conditional Order of Dismissal on July 17, 2017, and a Final Order of Dismissal on January 26, 2018. Applicant filed a Motion to Alter or Amend Judgment pursuant to Rule 59(e) SCRPC on February 2, 2018. After careful review of the argument presented, Applicant's motion is denied.

AND IT IS SO ORDERED this 21 day of March, 2018.

  
DOYET A. EARLY III  
Resident Judge  
Second Judicial Circuit

, South Carolina



ALAN WILSON  
ATTORNEY GENERAL

May 24, 2018

The Honorable Robert J. Harte  
Clerk of Court, Aiken County  
PO Box 583  
Aiken, SC 29802-0583

Re: Cedric L. Woods v. State of South Carolina  
2016-CP-02-1406

Dear Mr. Harte:

Enclosed please find an original copy of an Order Denying Motion to Alter or Amend Judgment in connection with the above referenced case. Please file the original and return a certified copy to me in the self-addressed envelope provided for your convenience.

Sincerely,

Julie A. Coleman  
Assistant Attorney General

JAC:ces  
Enclosures

cc: Cedric L. Woods, #265789

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Proof of Service

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I hereby certify that on this the 7<sup>th</sup> day of June, 2018, <sup>that I have</sup> placed in the USPS mail at the ACI mailroom, my Rule 208(b)(3) Reply to the Respondant's Initial Brief addressed to the South Carolina Court of Appeals, PO Box 11629 - Columbia, SC 29211.

Respectfully submitted,  
Cedric L. Woods

Cedric L. Woods, # 265789

pro se

ic L. Woods, # 265789  
- F3-B-03  
ex 1151  
\*, SC 29827-1151



S.C. Court of Appeals  
PO Box 11629  
Columbia, SC 29211-1629

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