

STATE OF SOUTH CAROLINA  
IN THE COURTS OF APPEALS

APPEAL FROM Horry COUNTY  
COURT OF GENERAL SESSIONS

RECEIVED  
JUN 21 2018  
SC Court of Appeals

Benjamin H. Culbertson, Circuit Court Judge

Case No: 2007-GS-26-00418

The State of South Carolina,

Respondant,

v.

Arnold Lea Ward, SCDC #109169,

Appellant,

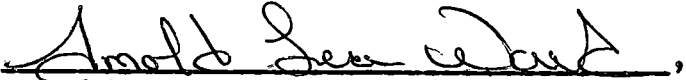
Designation of Matter  
to be included in the record on Appeal

Appellant proposes the following be included in the record on Appeal:

- ~~(1) Order of denial~~, September 1, 2015 - Motion for Newly Discovered Evidence.
- (2) Order of denial, September 17, 2015 - Motion for Reconsideration.
- ~~(3) Transcript of proceedings~~, Pg 3, section 12-25, Pg.4, section 10-25.
- (4) Exhibit FA. [Signatures and Reports of Horry County Grand Jury's action for the year of 2007 ]...

I certify that this designation contains no matter which is irrelevant to this Appeal...

August 11, 2017:

  
Arnold Lea Ward, SCDC #109169.  
Acting Pro-Se Attorney...  
Allendale Correction Institution.  
Post-office Box 1151 F-3-B-23  
Fairfax, South Carolina 29827

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )

INDICTMENT FOR:  
BURGLARY 1ST DEGREE (ATTEMPTED)

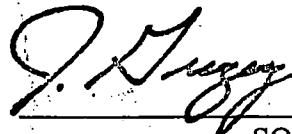
At a Court of General Sessions, convened on January 25, 2007, the Grand Jurors of Horry County present upon their oath:

BURGLARY 1ST DEGREE (ATTEMPTED)

CDR: 0079 C/L 16-11-311, 16-1-80, 16-1-60

That ARNOLD WARD did in Horry County on or about October 31, 2006, willfully and unlawfully attempt to enter the dwelling of Shane Holley, located at 4901 Willow Lane in the Myrtle Beach section of Horry County, without consent and with the intent to commit a crime therein, and the defendant had two or more prior convictions of burglary and/or housebreaking, in violation of the Common Law and Section 16-11-311, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SOLICITOR

FILED  
HORRY COUNTY  
CLERK OF COURT  
2010 APR 22 PM 3:08  
MELANIE HESSINS WARD  
CLERK OF COURT  
HORRY COUNTY  
APR 22 PM 3:08  
CERTIFIED COPY  
M.S.:08

STATE OF SOUTH CAROLINA , IN THE COURT OF GENERAL SESSIONS  
 , FIFTEENTH JUDICIAL CIRCUIT  
 COUNTY OF Horry , CASE NO.: 2006-GS-26-418

State of South Carolina ,  
 ,  
 ,  
 ,  
 ,  
 vs. ,  
 ,  
 Arnold lea Ward, ,  
 ,  
 Defendant. ,

MOTION FOR AFTER-NEWLY DISCOVERED EVIDENCE

"Evidentiary Hearing Required"

Horry County  
 2016 JUN 15 PM 11:14  
 PAUL BAKER, CLERK OF COURT

PLEASE TAKE NOTICE that the Defendant, Arnold lea Ward, through its undersigned Pro Se will move before the Court of General Sessions, at Place and Time of the Court may appoint for an "Evidentiary Hearing" for [Motion for After-Newly Discovered Evidence] pursuant to Rule (b), SC R.Crim.P. and Rule 60 (b)(3), SCRPC. There is no Statute of Limitations when a Party seek to set aside a judgment due to fraud upon the Court, (Citing Aoude v. Mobil Oil Corp., 862 F.2d 890 (1st Cir.1988), Catoe v. State, Supra. There is no time limitation within such [Motion] must be set forth... (See also).. State v. Williams, 108 S.C. 259, 93 S.E.2d 106.

" ALLEGATIONS"

In his current motion, Defendant alleges that he is being held in custody unlawfully for following reasons:

GROUND A: Did the Solicitor commit (sic) a "Procedure Error" by unlawfully impaneling its Grand Jury outside the Statute of S.C.Code Ann§ ,14-5-810,...

## SUPPORTING FACTS AND ARGUMENT

The Defendant humbly contends that the Solicitor did commit a "Procedural Error" and "Contempt of the Proceedings" by unlawfully impaneled its Grand Jury outside the Statute of S.C. Code Ann§ 14-5-810 and then willfully printed and published false and misleading information in its indictment in order to deep secret its violations of statutory law.

However, here evidence will establish that the General Assembly did not set forth a "Term of Court" in S.C.Code Ann.§ 14-5-810 (1),for fourth week in "January".

### **S.C.Code Ann.§ 14-5-810 (1). Term of Court in the Fifteenth Circuit.**

- The Courts of the Fifteenth Judicial Circuit shall be held as hereinafter provided.
- Horry County.-The Court of General Sessions for Horry County shall be held at Conway on the Second Monday in January for one week, on the First Monday in March for two weeks, on the First Monday in June for two weeks, and on the First Monday in October for two weeks.

According, Section 14-~~9~~-210, requires strict complaine with its provisions and mandates that the Grand Jury must be impaneled under jurisdiction of the Court of General Sessions before lawful return of a true-bill indictment can take place.

Next in Ex Parte Lilly, 7 S.C. 372 (1876), WL 5977, the S.C. Supreme Court of South Carolina briefly recounted the procedural history of Lilly against the background of State v. Henderson, 134 S.E. 364,136 S.C. 363 (S.C.Aug. 16,1926). The Court in Lilly case Noted that the South Carolina Supremé Court had apparently already concluded the "Term of Court" in the Statute and which analyzed a "Term of Court" very similar-

In the case at hand the indictment reads as follows:

- At a Court of General Sessions, Convened on January 25, 2007 the Grand Jurors of Horry County presented upon their Oath:

Therefore, recognizing the jurisdictional requirements set forth in section 14-9-210, mandating the only process allowed for impaneling a lawful grand jury, and often consideration of the facts and evidence presented above, it becomes apparent that the [Defendant] was indicted outside the jurisdiction of the Court of General Sessions and by a mode of procedure that State had no lawful authority to adopt.

When a legislative enactment limits the manner in which something may be done, the enactment also evinces the intent that it shall not be done another ~~another~~ way. Thus, since the Court utilized an unlawful mode of procedure not allowed under section 14-9-210, state lacked the requisite jurisdiction to complete return of its true-billed indictment.

As established above, section 14-9-210 is clearly a jurisdictional statute, and sets forth mandatory procedure to be utilized by State for lawful return of a true-billed indictment. A substantial body of South Carolina law holds that a failure to comply with statutory law jurisdictional in nature deprives the court of subject matter jurisdiction, State v. Loftin, 275 S.E.2d 575 (S.C.1981); Gray v. State, 276 S.C. 634, 281 S.E.2d 226 (S.C.1981), and many more.

Consequently, and in keeping with the mandatory provisions of section 14-9-210, state has No jurisdiction to issue return of true-billed indictment except during a time when the Court of General Sessions is lawfully convened to oversee the grand jury process. Any acts of the court taken outside those statutory restrictions would by necessity be null and-

void. In fact, our Supreme Court has already 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 lawful return of indictment can take place. See State v. McClure, State v. Funderburk, and State v. Wheeler.

One additional piece of evidence very clearly settle the matter of State's FALSE condition. The information contained in the indictment, also establishes that no special term of the Court of General Sessions was convened on January 25, 2007 under the provisions of either Section 14-5-410, Section 14-5-910, or Section 14-5-920. See also, State v. Gossett, 117 S.C. 76, 108 S.E. 290 S.C. 1921, the power to call a Special Term of the Court of Common Pleas and General Sessions, conferred on the Chief Justice of the Supreme Court or the presiding Associate Justice by Rulle 77 (e), SCRCP [Cancelling or Ordering Terms of Court]. (No turn of court shall be cancelled nor additional term scheduled without the prior approval of the Chief Justice. When the local bar requests that a week of common pleas court be not held, or the solicitor requests that a week of general sessions court be not held, the clerk shall immediately notify the Administrator of this State.)

Here, the Solicitor <sup>has</sup> did committed a Neglect of Duty, by unlawfully impaneled its grand jury out side the Statute 14-5-810 (1). Pursuant to Section 14-5-140. Neglect of duty as to holding terms, disobeying order assignment, and other violations; proceedings.

Specifically, it should be noted that the Code of Judicial Conduct, Cannon 2 (A), states. "A judge shall respect and comply with the law, and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary".

CONCLUSION

Based on the forgoing, the Defendant respectfully request this Honorable Court grant the Defendant's Motion and vacate the conviction and sentence as a matter of law.

Respectfully Submitted,

Arnold Lea Ward

Arnold lea Ward, #109169  
Allendale Correctional Institution  
P.O.Box 1151 F-3-B-13  
Fairfax, S.C. 29827

FORRY COUNTY  
2015 JUN 15 PM 3:14  
CLERK OF COURT

SWORN OR AFFIRMED TO AND SUBSCRIBE BEFORE ME

This 10<sup>th</sup> day of June, 2015

Debbie L McCahey  
South Carolina Notary Public

My Commission Expires: July 10, 2021

Arnold Ward

STATE OF SOUTH CAROLINA  
COUNTY OF Horry  
IN THE COURT OF GENERAL SESSIONS

ORDER IN A CRIMINAL CASE  
WARRANT(S): J316 250  
INDICTMENT(S): 2007-GS-26-418

State of South Carolina

Arnold Ward, #109169  
DEFENDANT(S)

This form order submitted by: Benjamin H. Culbertson Administrative Judge, General Sessions	Attorney for : <input type="checkbox"/> State <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE

- DECISION BY THE COURT AFTER HEARING. This action came to a hearing before the court. The issues have been heard and a decision rendered.  See below for additional information.
- DECISION BY THE COURT AFTER STATUS CONFERENCE. This case came for a status conference before the court. The status of this case and pending issues in this case were discussed and a decision rendered.  See below for additional information.

MOTION: **Defendant's Motion for Reconsideration (attached hereto).**

GRANTED  DENIED  CONTINUED  WITHDRAWN

WITHDRAWN BY MOVING PARTY: \_\_\_\_\_  
Signature of Moving Party

OTHER: **This motion is decided without oral arguments.**

FILED  
2015 SEP 28 PM 2 18  
MELISSA M. JOHNSON  
CLERK OF COURT

IT IS ORDERED AND ADJUDGED:  See Order of the Court below  See attached order  
 Formal Order to follow; to be prepared by:  State  Defendant  Other: \_\_\_\_\_

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk : \_\_\_\_\_


*Benjamin H. Culbertson*  
Circuit Court Judge

2148  
Judge Code

Sept. 23, 2015  
Date

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

State of South Carolina

Plaintiff

v.

Arnold Ward #109169


Defendant.

IN THE COURT OF GENERAL SESSIONS

CASE NO.

2007 - G5 - 26 - 418

MOTION AND ORDER INFORMATION  
FORM AND COVER SHEET

Plaintiff's Attorney: <u>Arnold Ward</u> , Bar No <u>109169</u> Address: <u>P.O. Box 1151</u> <u>Fairfax, SC 29827</u> phone: _____ fax: _____ e-mail: _____ her: _____	Defendant's Attorney: _____, Bar No. _____ Address: _____ phone: _____ fax: _____ e-mail: _____ her: _____
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
<b>SECTION I: Hearing Information</b> Nature of Motion: <u>Motion for Reconsideration</u> Estimated Time Needed: <u>Min. 30</u> Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO	
<b>SECTION II: Motion/Order Type</b> <input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.  <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">             Signature of Attorney for <input type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant         </div> <div style="text-align: right;"> <u>Septem 3, 2015</u>            Date submitted         </div> </div>	
<b>SECTION III: Motion Fee</b> <input type="checkbox"/> PAID - AMOUNT: _____ <input type="checkbox"/> EXEMPT: <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support (check reason) <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input checked="" type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____	
<b>JUDGE'S SECTION</b> <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE _____  CODE: _____ Date: _____
<b>CLERK'S VERIFICATION</b> Collected by: _____ Date Filed: _____  <input type="checkbox"/> MOTION FEE COLLECTED: _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: _____	

Septem 3,2015

Arnold Ward, #109169  
Allegale, C.I.  
P.O.Box 1151 F-3-B-13  
Fairfax, SC 29827

The Honorable Melanie Huggins-Ward  
Horry County, Clerk of Cort  
P.O. Box 677  
Conway, South Carolina 29528

RE: STATE OF SOUTH CAROLINA v. ARNOLD WARD  
CASE NO.: 2007-GS-26-418

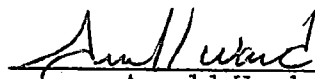
Dear Ms. Ward:

Enclosed gor filing please find the original Defendan's Motion for Recon-  
sideration in connection with the above-referenced matter. Please file the original  
and return the clocked copy back to me.

By copy of this letter I am this date serving a copy of the Motion upon  
the Respondent.

Thank you for your assistance in this matter.

Sincerely,



Arnold Ward, #109169

CC: Alan Wilson, Attorney General  
Brad Richardson, Soillicitor  
The Honorable Benjamin H. Culbertson, Judge

STATE OF SOUTH CAROLINA  
COUNTY OF HORRY

) IN THE COURT OF GENERAL SESSIONS  
) FIFTEENTH JUDICIAL CIRCUIT  
) CASE NO. 2007-GS-26-418

State of South Carolina

vs.

Arnold Ward, #109169

Defendant.

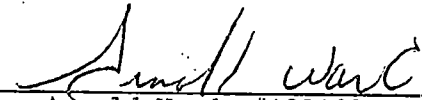
CERTIFICATE OF SERVICE

I, Arnold Ward, Pro se Defendant do hereby certify that I have served a copy of the Motion for Reconsideration by mailing a copy of same, with postage pre-paid, by United States mail to the Respondent at the address(es) below:

Alan Wilson, Attorney General  
Office of Attorney General  
P.O.Box 11549  
Columbia 29211

Brad Richardson  
Solicitor  
P.O.Box 1276  
Conway, SC 29528

The Honorable Benjamin H. Culbertson, Judge  
Judge of the Fifteenth Circuit  
P.O.Box 421270  
Georgetown, SC 29442

  
Arnold Ward, #109169



SCRCP RULE 77(e) provides:

- No term of court shall be cancelled nor additional term scheduled without the prior approval of the Chief Justice. When the local .. bar requests that a week of common pleas court be not held, or the solicitor requests that a week of general sessions be not held, the clerk shall immediately notify the Court Administrator of this state.

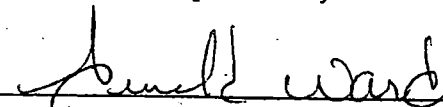
As set forth, what competent authorith the [Solicitor] has to alter the term of court set forth in S.C.CODE ANN.§ 14-5-810 (1)? This motion is based on the grounds that the Court determined an issue of fact regarding Defendant's discovery of his.. claim regarding the Solicitor unlawfully impaneling its Grand Jury out side the [term of court] set forth in 14-5-810 (1), without an adequate record and without taking the facts in the light most favorable to Defendant. This motion will be supported by applicable case law, statutes, and any supporting memoranda and exhibits that may be submitted to the Court prior to the hearing of this matter.

With respect, pursuant to SCACR 501 Canon 3 (B)(2) A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be sawyed by partisan interests, public clamor or fear of crimiticism. The Adjudicative Responsibilities of this Court to be faithful to the law. To reiterate, what competent .. authority the Solicitor can produce to this Court that the [Chief Justice] order a special term of court for "Thursday, January 25,2007. As set forth, on September 1, 2015, the Solicitor mislead the court to believe that Rule 40. General Docket... Trial Roster, and Call of Cases for Trial, was the official document for legal term. The question still remain, did the Chief Justice Order a Special Term of Court on "Thursday, January 25,2007"?

#### CONCLUSION

For all the reasons stated herein above, it is respectfully request that the Honorable Court reconsider the previous ruling of the Court. And set forth, another "Evidentary Hearing" as a matter of law.

Respectfully submitted,

  
\_\_\_\_\_  
Arnold Lea Ward, #109169

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM Horry COUNTY  
COURT OF GENERALS SESSIONS

RECEIVED  
JUN 21 2018  
SC Court of Appeals

Benjamin H. Culbertson, Circuit Court Judge

Case No: 2007-GS-26-00418

The State of South Carolina,

Respondant,

v.

Arnold Lea Ward, SCDC #109169,

Appellant,

PROOF OF SERVICE

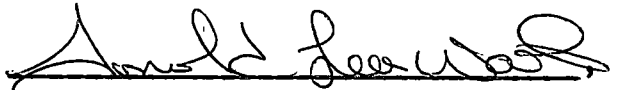
I certify that I have served a copy of the original, (Record on Appeal) and notification of records in designation of Matter on records of Appeal, in the above referenced case on the South Carolina Courts of Appeals, and the Attorney Generals office (respondant for the State) on the date stated Here-in, by depositing a copy of the same in the United States Mail, With Postage prepaid, to the addresses listed below.

June 21, 2018:

(Parties and Counsels of record):

South Carolina Courts of Appeals  
Ms. Jenny Abbott Kitchings, Clerk.  
Post-office Box 11629  
Columbia, South Carolina 29211

Office of Attorney General  
The State of South Carolina  
Post-office Box 11549  
Columbia, South Carolina 29211

  
Arnold Lea Ward, SCDC #109169.  
Acting Pro-Se Attorney...  
Allendale Correction Institution  
Post-office Box 1151 F-8-B-29  
Fairfax, South Carolina 29827

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM Horry COUNTY  
COURT OF GENERAL SESSIONS

RECEIVED  
JUN 21 2018  
SC Court of Appeals

Benjamin H. Culbertson, Circuit Court Judge

Case No: 2007-GS-26-00418

The State of South Carolina,

Respondant,

v.

Arnold Lea Ward, SCDC #109169,

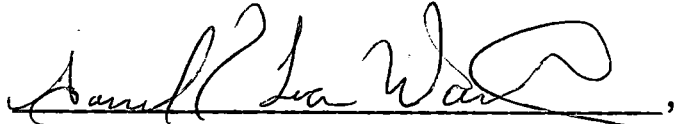
Appellant,

CONTENT LIST

- (1). Proof of service.
- (2). Designation of Matter, (Documents to be added).
- (3). Indictment.
- (4). Motion for Newly Discovered Evidence.
- (5). Motion for Reconsideration.

Appellant propose the following be included in the record on Appeal:  
I certify that this designation contains no matter which is irrelevant  
to this Appeal..

June 21, 2018:



Arnold Lea Ward, SCDC, #109169.  
Acting Pro-Se Attorney...  
Allendale Correction Institution  
Post-office Box 1151 F-4-B-29  
Fairfax, South Carolina 29827

Arnold Lea Ward, SCDC, #109169.  
Allendale Correction Institution  
Post-office Box 1151 F-4-B-29  
Fairfax, South Carolina 29827

June 21, 2018

South Carolina Courts of Appeals:  
Ms. Jenny Abbott Kitchings, Clerk.  
Post-office Box 11629  
Columbia, South Carolina 29211

RE: State v. Arnold Ward  
Appellant Case No: 2015-002107.  
(Record on Appeal):

RECEIVED  
JUN 21 2018  
SC Court of Appeals


Dear Honorable Clerk,

Please find enclosed the following copies of the (Record on Appeal) and notification of records listed in the designation of matter to be used in the record of appeal in the above referenced case, With proof of service..

Appellant would respectfully request the following documents please be file and a clock stamped copy of such be returned to the address listed above for process and personal files...

Appellant would like to take the time to thank you and your office in advance for any or all assistance that may be provided in the helping to procure the legal matter herein...

Respectfully Submitted,



Arnold Lea Ward, SCDC, #109169.

CC: South Carolina Courts of Appeals:  
Ms. Jenny Abbott Kitchings, Clerk.

South Carolina Attorney Generals Office:  
Mr. Alan McCrory Wilson, Esquire.

Arnold Lea Ward, SCDC, #109169.  
Allendale Correction Institution  
Post-office Box 1151 F-4-B-29  
Fairfax, South Carolina 29827

RECEIVED  
JUN 19 2018  
MAILROOM  
ACI

**LEGAL MAIL**

South Carolina Courts of Appeals  
Ms. Jenny Abbott Kitchings, Clerk.  
Post-office Box 11629.  
Columbia, South Carolina 29211

RECEIVED  
JUN 21 2018  
SC Court of Appeals