

THE STATE OF SOUTH CAROLINA  
IN THE 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,

Respondent.

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MOTION FOR SUMMARY JUDGMENT

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SC Court of Appeals

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This Appellant, Cedric L. Woods, comes before this Court seeking a Rule 56 Motion for Summary Judgment. The Respondent has made no reply to this Appellant's Amended Initial Reply Brief mailed with proof of service on August 16, 2018 to this Court and the Office of the S.C. Attorney General. As such the Respondent is now in default per Rule 55, SCRPC, ( 55 (a) and (b)(2) ) and this Appellant respectfully asks for this Court's relief.

As was pointed out in his last brief, there is prima facia evidence of fraud right on the faces of the indictments along with a conflict with the dates for terms of court as mandated by the State legislature for Aiken County. See §14-5-630(1). The terms of court were for the court of common pleas not general sessions, and the courts of common pleas are vested with no authority to take any action on matters pertaining to the return of true bill indictments and they have no grant of concurrent jurisdiction with any grand jury.

As such, if the grand jury was impaneled with the Aiken County Court of Common Pleas it would have had no jurisdiction to return any true bill indictments in either the February or April terms of court. Additionally, the dates of true bill and the signature of the foreperson are four and ten days prior to the term which is also indicative of fraud.

The State has only argued *St. v Pringle*, 339 SE2d 127, (1986). That "absence of evidence to the contrary, the regularity of the proceedings of a court of general jurisdiction will be assumed."

Because the Appellant has shown prima facie evidence of fraud and the terms of court are in conflict with law, this assumption can no longer exist. The State has been reluctant to refute this Appellant's claims of fraud which <sup>it</sup> could have easily done with journals for the courts of common pleas and of general sessions that are required of the Aiken County Clerk of Court to keep, per § 14-17-540. It appears that the State has something to hide.

If the grand jury did not have jurisdiction, which would be the case if it was impeded with the court of common pleas, any indictment rendered would be a nullity and fail to give the required notice demanded by due process, and the condition of presentment precedent to a criminal trial would be absent or "wanting." As such the Appellant's trial was in excess of jurisdiction. While Gentry and its progeny have stated that the indictment does not confer subject matter jurisdiction to the trial court, these cases have not overruled the State Constitution's mandate of presentment as a condition precedent to a criminal <sup>trial</sup> and if a criminal court convicts a defendant without presentment by a legal grand jury it is in excess of jurisdiction.

Beckwith v McAlister, 162 SE 623, (1932), cites Broome v. Douglass, Alabama S.Ct. (1912), 175 Ala. 268, 57 So. 860, "By 'excess of jurisdiction' as distinguished from the entire absence of jurisdiction, we understand and mean that the act, though within the general power of the judge, is not authorized, and therefore void, with respect to the particular case, because the conditions which alone authorize the exercise of his general power in that particular case are wanting, and hence the judicial power is not in fact lawfully invoked."

If an indictment is a nullity it is the same as it never existed, therefore there was no presentment and the condition of presentment required by article I, § 11 to authorize the exercise of the judge's or court's general power is absent or wanting and hence the judicial power is not in fact lawfully invoked. This should make the Appellant's conviction and sentence a nullity and voidable on appeal.

### Conclusion

For the foregoing reasons stated above the Appellant respectfully asks that this Court grant him summary judgment and vacate his sentence and conviction.

Should this Court in its wisdom not be compelled to vacate his sentence and conviction, the Appellant would respectfully ask that his case be remanded for an Anderson hearing, per Anderson v St, 527 SE2d 398, (2000), and as in Anderson, order that the State →

shoulder the burden of proving that the grand jury that considered his case had proper jurisdiction, but also that it was not fraudulent as it appears prima facie.

The State should also be required to prove the following: (1) that all of the grand jurors were qualified in open court for each session, (2) that the grand jury was impaneled with and reported to a court with co-extensive jurisdiction, (3) that the state present the journals for the courts of common pleas and general sessions with which to confirm the opening and adjournment of these courts for February and April of 2000, (4) that the Clerk of Court for Aiken or a deputy clerk with knowledge of these records and authority to testify as to the veracity, accuracy, and authenticity of these records, and (5) any other such proof as this Court would deem necessary to prove or disprove the Appellant's allegations and assertions.

The Appellant would further ask respectfully that if the State is unable to prove the Appellant's allegations and assertions are without merit that he be granted relief such as this Court should deem just and appropriate.

Respectfully submitted,  
Cedric L. Woods

Cedric L. Woods #265789

pro se

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**PROOF OF SERVICE**

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I certify that I, Cedric L. Woods, #265789, have on this the 24<sup>th</sup> day of September, 2018, served a copy of my Motion for Summary Judgment to the S.C. Court of Appeals and to the S.C. Attorney General's Office.

Respectfully Submitted

*Cedric L. Woods*

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SC Court of Appeals

South Carolina Court of Appeals

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