



The Supreme Court of South Carolina

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April 2, 2019

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APR 03 2019

SC Court of Appeals

Mr. Emory W. Roberts, #373393
Lieber Correctional Institution
136 Wilborn Avenue
Ridgeville, SC 29472

Re: The State v. Emory W. Roberts

~~Appellate Case No. 2017-001676~~

Lower Court Case No. 2016GS4700002 and 2016GS4700003

Dear Mr. Roberts:

This responds to your petition for a writ of mandamus dated March 26, 2019. Since you are currently represented by counsel regarding these charges before the South Carolina Court of Appeals, I cannot accept this *pro se* petition for filing and no action will be taken on it by this Court. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010); *Jones v. State*, 348 S.C. 13, 558 S.E.2d 517 (2002); *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998); *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989).

If you believe that you have good cause to have your appointed counsel relieved as your counsel, you will need to serve and file a motion seeking that relief in the Court of Appeals where the appeal is pending.

Very truly yours,


CLERK

cc: Joshua Richard Underwood, Esquire
Susan Barber Hackett, Esquire

~~The Honorable Jenny Abbott Kitchings (with copy of petition)~~

State Grand Jury of South Carolina
State of South Carolina

Vs.

Emory Warren Roberts Jr.,
Defendant.

The Supreme Court of South Carolina
(Case No. 2016-GS-47-02)

Re: Pro-Se Motion, For Issuance
— Petition of Writ of Mandamus
28 U.S.C.A. § 1361

Before: The Supreme Court of South Carolina
Appearance: Emory Warren Roberts Jr. (Pro-Se)

Dear Honorable Clerk of Court,

Please Clock, Date, Stamp, File And
Return Copy To Defendant, Thank You.

Date: 3/26/19

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S.C. SUPREME COURT

(See Page Numbers on Reverse Side)

Attachments

Attachments

3/26/19

1. Defendants correspondence to Court Admin. dated 10-16-17
2. Court Admin. reply dated Oct. 23, 2017
3. Defendants correspondence to Court Admin. dated 10-31-17.
4. Court Admin. reply dated 11-6-17
5. Order Relieving Appellate Defender (Susan B. Hackett)
6. Order Relieving trial Counsel (Timothy Griffith)
7. Petition for Issuance of Writ of Mandamus.

Order Relieving Trial Counsel

(3-26-19)

Termination of Lawyer/Client Relationship

Defendant submits motion to relieve "Trial Counsel",
Timothy Griffith in the matter of State Grand Jury of South
Carolina, Case No. 2016-GS-47-02/2016-GS-47-03.

On this date, 3-26-19, I Emory Warren Roberts Jr.
relieves trial counsel, Timothy Griffith.

Rule 1.16(C), RPC, Rule 407, SCACR

"A Lawyer must comply with applicable law requiring
notice to or permission of a tribunal when terminating
a representation.

I, Emory Warren Roberts Jr., being duly sworn upon my
oath, depose and say that herein is true under the
penalty of perjury.

Emory Roberts
Emory Roberts

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S.C. SUPREME COURT

Relieving Counsel/Termination of Lawyer - Client Relationship.

3/26/19

(C), RPC, Rule 407, SCACR

Lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation." Defendant submits motion to relieve counsel in this matter, the court notes exceptions to the rule for pro se motions seeking to relieve counsel and for a party's right to file a pro se brief pursuant to Anders and Johnson. (Id. at 58, 508 S.E. 2d at 565)

On this date, 3-26-19, I Emory Warren Roberts Jr. relieves Appellate Defender, Susan B. Hackett as Attorney/Counsel. After investigation by investigator, and due diligence by defendants family, it was discovered that the procedures and requirements for the initiation, service, action or "Alleged" filing of appeal on Appellants behalf, has been an act of collusion on behalf of Appellate Defender, Trial Court, and trial counsel, as well as Attorney Generals Office to unconstitutionally deprive defendant of his statutory right to a direct appeal. On April 30, 2018, a brief was provided to appellant, advising Appellant that on July 31, 2017, Appellant served his notice of appeal, however, a record check of the Supreme Court, and a record check of the Court of Appeals record will reveal that, in fact, that there is no record of defendants case, in name, or filing number. (Appellant Case No. 2017-001676). At this point, in light of all the circumstances, Appellant would ask that the procedure's in Anders v. California be applicable to Appellant, however, Appellant maintains that for over 18 months he has been sent "Fictitious documentation", from the Court of Appeals, in the form of letters, correspondence, Initial Brief of Appellant, and Designation of Matter, and that Defendant is actually being denied the Appeals process. Defendants family is in possession of evidence to support defendants claims, in the form of Computer Print-outs of records, screen shots, and correspondence from investigator. For the reasons stated herein, defendant terminates lawyer/client relationship, and relieves Susan B. Hackett as Attorney/Counsel for defendant.

I, Emory Warren Roberts Jr., being duly sworn upon my oath, depose and say that all herein is true under the penalty of perjury.

RECEIVED
APR 01 2019
Emory Warren Roberts Jr

S.C. SUPREME COURT

To establish the conditions necessary for issuance of writ of mandamus, party seeking the writ must demonstrate that (1) it has a clear and indisputable right to relief sought. (Defendant has clear and indisputable right to relief sought as the equal protection of the laws, provisions, statutes and rules are applicable to defendant under the Federal and state constitutions. It is clear and indisputable that defendant has been wrongly convicted in violation of these laws, provisions, statutes and rules of both constitutions. Defendant presents "exculpatory evidence" in the form of correspondence from Supreme Court, Court Administration, dated 10-23-17, and 11-6-17, that "no court reporter was assigned to record grand jury proceedings", therefore no transcript being available, proves that defendant had not had a hearing, and that the state Grand Jury had not convened on dates of "alleged" indictment (4-12-16/4-13-16), defendant has a clear and indisputable right to relief sought) (2) responding party has a clear duty to do the specific act requested. (It is the duty of all officials, whether legislative, judicial, executive, administrative, or ministerial, to so perform every official act as not to violate Constitutional provisions - Montgomery V. State, 55 FLA. 97, 45 So. 879.) - "Courts should not tolerate or condone disregard of law and arbitrary usurpation of power on the part of any officer". Ex parte Owen, 10 OKIA Crim Rep 284, 136, P. 197, Ann Cas 1916 A 522. (3) the act requested is an official act or duty. (The privileges and immunities of citizens of this state and the United States under this constitution shall not be abridged, nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protections of laws. The act requested is an official act or duty, to which an oath was taken to uphold the laws of this state, and a duty to act in his/her official capacity.) (4) there are no other adequate means to attain the relief it desires. (A record check of the Supreme Court, and Court of Appeals will reveal that defendant has no case filed in these Courts (to which defendant's family has screen shots, computer print-outs) therefore Appellate Review is not accessible. Further numerous attempts to file motion based on "After Discovered Evidence" have been denied defendant by Trial Courts claim that "my case" is not a Berkeley County Case.) (5) issuance of the writ will effect right and justice in the circumstances, in that the integrity of the court will not be compromised. defendant will have justice done by sentence and convictions being vacated.

Statement Of Issue, No.1

(1 of 2 Issues)

Whether defendants rights to the Fifth Amend. to the United State's Constitution, and Art.1 §11., Art.5. § 22, and Art.1. §3. of state of South Carolina Constitution was violated when grand jury had not met, or convened, to consider criminal allegations against defendant ?

Argument

Defendants fifth Amendment rights to the United States Constitution, and Art. 1. § 11, Art. 5. § 22, and Art. 1. § 3 of South Carolina State Constitution was violated when Defendant was held for trial, and convicted without defendant being duly indicted by a grand jury.

Relevant Facts

On Feb. 8, 2016, defendant was arrested in Berkeley County, and taken directly to Richland County. Defendant was held at Alvin S. Glenn Detention Center, without preliminary hearing, and without being indicted. On June 9, 2016 defendant was taken from Alvin S. Glenn, and brought to Hill Finklea Detention Center. Upon being brought to Hill Finklea Detention, defendant had not been served any warrants for "alleged" indicted offenses. In fact, defendant had not been indicted, nor served warrants for any offense, or charge's. On July 19, 2017 defendant was brought to Berkeley County General Sessions Court in front of Judge Jefferson for pre-trial hearings. A Competency Hearing was held, at which defendant was found to be competent to stand trial, despite defendants "objections" and attempts to put "Trial Court" on notice that the trial court as well as, State Grand Jury lacked Subject Matter Jurisdiction.

Defendant explained to the judge that he had wrote to South Carolina, Supreme Court, Court Administration, regarding name of court reporter so that defendant could obtain impanelment documents from the State Grand Jury proceedings.

Defendant explained to the trial judge that according to Court Reporter Manager, Desiree Allen of Court Admin., on date's of "Alleged" indictment, "there had not been a court reporter assigned to record grand jury proceeding, and therefore no transcript was available, for the date's of 4/12/16 and 4/13/16, the dates of "alleged" indictment. When defendant explained, pursuant to the 6th Amend. of the United Constitution, that he has a right to know the "nature and cause of action being taken against him, the trial judge stated: "Sir, my office sent you your indictment. So you know what your indictments include. And your lawyer has gone over the discovery with you, so I don't find it plausible that you don't know what you are charged with. (Tr. Date: 7-24-17, page 14, Lines 5-11). Defendant then asked the judge "what does discovery consist?", the judge responded: "Evidence against you." Defendant then responded: "I didn't get that, All I Got was an indictment. (Tr. Date: 7-24-17, page 14, Lines 12-15).

Next, defendant requested, pursuant to Rule 5, continuing disclosure, any tapes or audios. (Tr. Date 7-24-17, p. 14, Lines 22-24)

The judge inquired of defendant personally regarding an arraignment, his request for a bond, his desire for "minutes" from the state wide grand jury proceedings, and access to audio/visual elements of the discovery materials.

Defendant requested the "minutes" from the state grand jury proceedings. (Tr. Date 7-24-17, page 15, Lines 5-6).

Trial judge responded: "You don't get those, sir. In South Carolina, all Grand Jury proceedings are secret. Nobody gets those."

(Emphasis Added). (Tr. Date 7-24-17, page 15, Lines 7-9). To this, the Assistant Attorney General responded: "Your Honor, the transcript from the State Grand Jury do not become a public record.

Defendant is permitted to read it according to the statute and controlling case law. However, we do not give them a copy. They would have to get them from the court reporter who takes those transcripts." (Tr. Date 7-24-17, page 15, Lines 14-18).

The trial judge then stated, "Sir, you would have to order it from the court reporter who you have to pay for it."

Defendant responded: "I tried that." The judge then told defendant that he would have to pay the court reporter in advance. Defendant advised the judge that Court Administration had informed him that there was no court reporter assigned to record grand jury proceedings, and therefore there was no transcript available, when defendant

stated, "I understand, but they say (Court Admin.) they do not have that. They have none of that. (Tr. Date 7-24-17, page 15, Lines 19-25). When defendant informed the judge he had been trying to order the transcript from Court Admin., the judge informed the defendant that he had been requesting the transcript from the wrong entity. (Tr. Date 7-24-17 page 16, Lines 1-25). When defendant asked the judge who would he have to write to for the transcript, the judge stated, "You would have to know the name of the court reporter and, if you ask court administration, they will give you that, or you would have gotten that from 'probably' the state grand jury clerk." (Tr. Date 7-24-17, page 17, Lines 14-19). Defendant then asked the Judge could he provide, as evidence, the correspondence from Court Administration. The judge responded, "I don't have any reason to doubt your word, however, the judge refused to acknowledge" exculpatory evidence from defendant. (Tr. Date 7-24-19, page 17, Lines 22-23). The judge then insisted that the court reporters for the state grand jury freelance. (Tr. Date 7-24-17, page 17, Line 25). Judge Jefferson then asked the clerk of the S. G. J., "He would have to have written you to get that court reporters name?" The judge stated, "You would have to have gotten that from the State Grand Jury Clerk."

Because those reporters that do that are freelance reporters. They are not under court administration." (emphasis added) (Tr. Date 7-24-17, page 18, Lines 1-5). (Please See §14-7-1700 State Grand Jury Act)

When the judge questioned what defendant believed he would learn from the documents related to the grand jury, defendant stated: "Well, I'm actually going to show that no State Grand Jury even occurred." (Tr. Date 7-24-17, page 19, Lines 8-12)

The judge responded, "Oh, it happened because I have the indictments. Defendant replied, "I have the ^{indictment} papers, but that doesn't say it happened." (Tr. Date 7-24-17, page 19, Lines 13-16.)

Without question, Defendant's desire to view the documents related to the grand jury proceedings was well-founded in the law. See Evans v. State, 363 S.C. 495, 509-514, 611 S.E. 2d 510, 518-520 (2005) (explaining a multitude of ways a criminal defendant may challenge an indictment based upon the state grand jury's proceedings and the documents to which a defendant is entitled during the discovery phase regarding the state grand jury's proceedings). Defendant was convicted on (7-28-17) without being indicted in violations of Federal, and State constitutions.

Defendant presents "exculpatory evidence" to support his claims in the way of Correspondence from Supreme Court, Court Admin., dated October 23, 2017, and November 6, 2017 as after discovered evidence.

Discussion : LACK of subject matter jurisdiction may not be waived, even by consent of the parties, and should be taken notice of by the Supreme Court. Brown v. State, 343, S.C. 342, 540 S.E. 2d 846 (2001)

Jurisdiction, powers, and authority in general.

"On every writ of error or appeal, first and fundamental question is that of [jurisdiction], first, of [Supreme Court], and then of [court from which record comes]; this question Supreme Court is [bound] to ask and answer for itself, even when not otherwise suggested, and without respect to relation of parties to it, U.S.C.A. Const. Art. 3 § 2, cl. 1.

Constitutional Law

"Statutory and, especially, constitutional elements of jurisdiction are essential ingredient of separation and equilibration of powers, restraining courts from acting at certain times, and even restraining them from acting permanently regarding certain subjects. U.S.C.A. Const. Art. 3. § 2, cl. 1.

United States Court of Appeals, Fourth Circuit, in Dreher v. Experian - Information Solutions, Inc. 856 F. 3d 337 held. "Without jurisdiction, a court cannot proceed at all in any cause; jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause. U.S. Const. Art. 3. § 2, cl. 1.

Pursuant to South Carolina State Constitution, Const. Art. 1 § 3:

"One who demands and is refused the right to be tried for crime charged against him only upon indictment presented by a legal grand jury, in instances where such indictment is required, may thereafter justly take the position that he has been deprived of life, liberty or property without due process of law in violation of the State Constitution, Const. Art. 1 § 3.

Pursuant to, State Vs. Williams 348 S.C. 424, "Except for certain minor offenses, the circuit court does not have subject matter jurisdiction to convict a defendant unless there has been an indictment of the offense, a waiver of indictment of the offense, or unless the charges is a lesser included offense of the crime charged.

Hooker V. Boles - 346 F.2d 285, United States Court of Appeals - "when court lacks jurisdiction, any judgment rendered by it is void and unenforceable.

U.S. V. Beasley 495 F. 3d 142, United States Court of Appeals, held, ...

"Without jurisdiction, a court cannot proceed at all in any cause except to announce the fact and dismiss the cause.

Please See Enclosed: Correspondence from Supreme Court, Court Admin, advising defendant that S.G.J. had not convened on 4-12-16, 4-13-16, the dates of defendant's "alleged indictment". Court Reporter, Desiree Allen's correspondence dated 10-23-17, and 11-6-17.

In re Estate of Haver .. Supreme Court, specifically, jurisdiction is composed of three elements: (1) personal jurisdiction, (2) Subject matter jurisdiction; and (3) the court's power to render the particular judgment requested.

Paschal V. Causey, Court of Appeals

"Subject Matter Jurisdiction of court depends upon authority granted to court by constitution and laws of state, subject matter jurisdiction cannot be waived or conferred by consent.

Katzburg V. Katzburg, Court of Appeals of South Carolina, July 30, 201
410 S.C. 184. "A Court, lacking subject matter jurisdiction, cannot enforce its own decrees.

Hooks V. State 353 S.C. 48

"A judgment by a court cannot be affirmed where the court had no right to act." Actions and judgment of the court in the absence of subject matter jurisdiction are void.

Lack of subject matter jurisdiction may not be waived, even by consent of the parties, and may be raised at anytime,

Brown V. State, 343, S.C. 342, 540 S.E. 2d 846 (2001)

EVANS V. STATE

Supreme Court of South Carolina, 363 S.C. 495

"A defendant has a right under the state constitution to demand that a grand jury which is properly established and constituted under the law consider the criminal allegations against him. Const. Art. 1, § 11; Art. 5, § 22.

Pursuant to the 5th Amend. to the U.S. Constitution...
.. "no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury."

A Judgment of a court without subject matter jurisdiction is void and constitutes grounds for the court to vacate the judgment. Rules Civ. Proc. Rule 60(b)(4).

There is no denial of equal protections of the laws in constitutional or statutory provisions relating to grand jury. U.S.C.A. Const. Amend. 14.

Please See: Exculpatory Evidence Enclosed from Supreme Court dated 10-23-17, and 11-6-17.

Clear and indisputable...

Pursuant to Section 14-7-1750. Indictment by state grand jury.
"In order to return a "true-bill" of indictment, twelve or more state grand jurors must find that probable cause exists for the indictment and vote in favor of it."

In violation of statute and provisions of the State Grand Jury Act, Section 14-7-1750, a state grand jury had not convened on dates of "alleged" indictment. Therefore no state grand jurors had met to find that probable cause existed for the indictment, and thereby could not vote in favor of it.

Section 14-7-1650. Duties and obligations of Attorney General.
(A) "The Attorney General or his designee shall attend sessions of a state grand jury and shall serve as its legal advisor. The Attorney General or his designee shall "examine witnesses", "present evidence", and "draft indictments" and reports upon the "direction of a state grand jury"."

Defendant presents clear and indisputable evidence to the contrary in the form of correspondence directly from the Supreme Court, Court Reporter Manager, Desiree Allen, Court Administration, dated (4-12-16) and (4-13-16).

Conclusion

LACK of subject matter jurisdiction may not be waived, even by consent of the parties, and may be raised at any time, and should be taken notice of by the Supreme Court. Statutory and, especially constitutional elements of jurisdiction are essential ingredient of separation and equilibration of powers, restraining courts from acting at certain times, and even restraining them from acting permanently regarding certain subjects. Without jurisdiction, a court cannot proceed at all in any cause; jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause. Defendant provides clear and indisputable proof of claim by Court Administration correspondence dated 4-12-17, and 4-13-17 in support of issuance of writ. A judgment of a court without subject matter jurisdiction is void and constitutes grounds for this court to vacate the judgment.

Statement of Issue, No. 2
(2 of 2 Issues)

Whether defendant's Fourteenth Amendment rights to the United States Constitution were violated when he was denied the equal protections of the laws in constitutional, and statutory provisions relating to grand jury?

Argument

Defendants Fourteenth Amendment rights to due process of law
was violated when he was denied the equal protections of the
laws in constitutional, and statutory provisions relating to
grand jury.

Relevant Facts

Defendant was arrested on Feb. 8, 2016 in Berkeley County, South Carolina for "alleged" crimes that is said to have been committed in Berkeley and Dorchester Counties. Upon arrest, defendant was taken directly to Richland County, Alvin S. Glenn Detention Center. On or about June 6-9, 2016 defendant was taken to Hill Finklea Detention Center. Upon being brought to Hill Finklea Detention, defendant had not been served any warrants to be legally detained at Hill Finklea Detention Center. On July 19, 2017, defendant was brought to Berkeley County General Sessions Court for a pre-trial competency hearing. On this date defendant was found competent to stand trial. Defendant made many "contemporaneous objections" to the courts about the courts and state grand juries lack of jurisdiction. (Subject Matter Jurisdiction)

There was a court order for defendant to be evaluated by a Doctor Maddox. On July 19, 2017 at pre-trial "Competency Hearing", Page 12, Lines 14-17, Doctor Maddox stated to the trial court: "Again, he doesn't believe that court has any jurisdiction. He does not believe that these charges are genuine. And any cooperation on his part will constitute consent and he will not do that." On July 19, 2017, defendant had continued to "contemporaneously object" to the courts and S.G.J. jurisdiction, See transcript dated (7-19-17), page 17, Lines 21-23. (Also see: Tr. July 19, 2017, page 22, Lines 11-12)

While making these challenges and objections to the trial judge, defendant stated to the trial judge: "Your Honor, those indictments are not even certified. According to the State Grand Jury Act, they are suppose to be certified." (July 19, 2017, page 23, Lines 10-12)

On Line 13, it states: [Whereupon, the court confers with the Clerk]

The Court, then states: "That's all that is required, sir that they be filed. There is no certification that goes on those things. (emphasis added)" (July 19, 2017, page 23, Lines 14-16)

On the day of defendant's trial, the judge asked trial counsel if defendant desired a formal arraignment. Tr. 12, 11. 7-10. When trial counsel indicated defendant wanted to represent himself, the judge remarked that was "fine", but she required trial counsel to remain as "shadow counsel". Tr. 12, 11. 9-12.

Thereafter, the judge inquired of defendant personally regarding an arraignment, his request for a bond, his desire for minutes from the statewide grand jury proceedings, and access to audio/visual elements of the discovery materials. Tr. Dated, July 24-28, 2017, p. 14, Lines 22-24 - D. 15 Lines 1-2

Defendant continued to "Attempt" to explain to the judge that Court Administration had advised defendant that, in fact, there had not been any grand jury proceedings convened on dates of "Alleged" indictment, in light of the fact that "no court reporter had been assigned to record grand jury proceedings, therefore no transcript being available. (Tr. Dated July 24-28, 2017, p. 15, Lines 5-25), (Tr. Dated 7-24-2017, p. 16, Lines 1-25), (Tr. Dated 7-24-19, p. 17, Lines 1-25), (Tr. Dated 7-24-2017, p. 18, Lines 1-20).

On 7-24-2017, p. 19 of trial transcript, Lines 8-12, the judge asked defendant: Court: "I guess I'm trying to figure out what is it that you think you would be able to use from the State Grand Jury record?" Defendant stated: "Well, I'm actually going to show that no State Grand Jury even occurred." (emphasis added)

On July 24, 2017, defendant, before a jury being sworn, asked the Court for the State Grand Jury minutes, to which the judge replied: "You don't get those, sir. In South Carolina, all Grand Jury proceedings are secret. Nobody gets those." (Tr. Date 7-24-2017, p. 15, Lines 5-9) (emphasis added)

Discussion: There is no denial of equal protections of the laws in constitutional or statutory provisions relating to grand jury. U.S.C.A. Const. Amend. 14

Pursuant to Section 14-7-1700. Record of proceedings; furnishing copy to defendant.

"Subject to the limitations of sections 14-7-1720 (A) and (D) and Rule 5, South Carolina Rules of Criminal Procedure, A defendant has a right to review and to reproduce the stenographically or electronically recorded materials. Transcripts of the recorded testimony or proceeding must be made [when requested by the Attorney General or his designee]. Subject to the limitations of section 14-7-1720 (A) and (D) and Rule 5, South Carolina Rules of Criminal Procedure, A copy of the transcript of the recorded testimony or proceedings [requested by the Attorney General or his designee] shall be provided to the defendant by the court reporter, upon request, at the transcript rate established by the Office of Court Administration.

Pursuant to Section 14-7-1700.

"A court reporter shall record, either stenographically or by use of an electronic recording device, all proceedings except when a state grand jury is deliberating or voting." (emphasis added).

✓ Please See Enclosure: Supreme Court, Court Administration, dated Oct. 23, 2017, and Nov. 6, 2017 from Court Reporter Manager, Desiree Allen, stating: "no court reporter has been assigned to record grand jury proceedings, therefore no transcript is available."

Grand Jury Powers And Duties

"The state grand jury operates under a very specialized procedure under which a defendant is permitted to obtain and review all evidence which was considered in handing down an indictment." Code 1976, §§ 14-7-1610, 14-7-1630 (A)(1).

A defendant can attack the state grand jury's subject matter jurisdiction by challenging the sufficiency of the evidence presented at the grand jury proceeding before the jury is sworn. Code 1976, §§ 14-7-1610, 14-7-1630 (A)(1) - Accordingly, defendant requested the minutes from the State Grand Jury proceedings.

The trial judge stated: "You don't get those, sir. In South Carolina, all Grand Jury proceedings are secret. Nobody gets those."
(Transcript, dated July 24-28, 2017, page 15, lines 5-9)
(Before A Jury Being Sworn)

When the judge questioned what defendant, on what he thought he would be able to use from the State Grand Jury record? Defendant responded to the judge: "Well, I'm actually going to show that no State Grand Jury even occurred."
(Transcript date July 24-28, 2017, page 19, lines 8-12)
(Before A Jury Being Sworn)

South Carolina Code Ann. § 14-7-1720 generally provides that State Grand Jury material is secret, but allows disclosure for the purpose of complying with constitutional, statutory, or other legal requirements or to further justice." See S.C. Code Ann. § 14-7-1720 (A)(5). Additionally, defendants are entitled to discovery in criminal cases, pursuant to the constitution, statute, and rule. See Brady v. Maryland, 373 U.S. 83 (1963); Evans v. State, 363 S.C. 495, 611 S.E.2d 510 (2005); S.C. Code Ann. § 14-7-1700; Rule 5, SCR Crim P.

Defendant contends that pursuant to §§ 14-7-1700, 14-7-1720(A) and (D), that to be in harmony with constitution, and statute, Attorney General or his designee would have had to request a copy of the transcript of the recorded testimony or proceedings in order for court reporter to provide defendant with transcript, this [was not] requested by Attorney General or his designee, and could not be requested as there was no court reporter assigned to record grand jury proceedings, therefore no transcript being available."

As such, this would constitute a violation of Brady v. Maryland, 373 U.S. 83 (1963). "A defendant asserting a Brady violation must demonstrate that the evidence the state failed to disclose exculpatory material in its possession requires a demonstration that (1) the evidence was favorable to the accused, (2) it was in the possession of or known to the prosecution, (3) it was suppressed by the prosecution, and (4) it was material to guilt or punishment. Gibson v. State (S.C. 1999) 334 S.C. 515, 514 S.E.2d 320.

Defendant asserts a Brady violation in that defendant's alleged crimes was not before a grand jury to be voted upon, pursuant to § 14-7-1750.

Attorney General was well aware of this fact, and proceeded to hold defendant for trial despite not being indicted. Defendant could not mount a defense against claims or charges that do not exist, however defendant was tried and illegally convicted in violation of constitutions, laws, and statute.

Assistant Attorney Generals for the State, Joshua Underwood and David Fernandez holds Full Knowledge and understanding of the laws of this State.

It is a requirement of the high office of a prosecutor.

The prosecutor occupies a quasi-judicial position, and must see that justice is done, that no conviction takes place except in strict conformity with the law. See e.g. State v. Quattlebaum, 338 SC 441, 527, SE 2d 587 (1975); State v. King, 222 SC 108, 71 SE 2d 793 (1952).

Constitutional and Statutory Rights.

In Gentry, the Court held that an indictment is a "notice document" required by State Constitution and statutes. See S.C. Constitution, Article I § 11, and Article V § 22. The primary purpose of an indictment are to put the defendant on notice of what he is called upon to answer, i.e., to apprise him of the elements of the offense and to allow him to decide whether to plead guilty or stand trial, and to enable the circuit court to know what judgment to pronounce if the defendant is convicted. See Evans v. State, 363 SC 495, 508-13, 611 SE 2d 510, 517-19 (SC 2005) (Citing Gentry, 363 at 102-03, 610 SE 2d at 500)

Clear and indisputable proof of defendant's claim should establish the conditions necessary for issuance of writ, defendant presents this proof as correspondence directly from the Supreme Court, Court Admin., dated 10-23-17, 11-6-17 informing and advising defendant that a State Grand Jury had not convened on dates of "alleged" indictment; that no court reporter was assigned to record grand jury proceedings, and that no transcript was available. See Enclosure: Court Reporter Manager, Desiree Allen's Correspondence dated Oct. 23, 2017 - Nov. 6, 2017.

Conclusion

There is no denial of equal protections of the laws in Constitutional or statutory provisions relating to grand jury. Defendant had not been indicted in violation of Federal and State Constitutions. In violation of statutes, a court reporter had not been assigned to record grand jury proceedings, nor had 12 or more state grand jurors met to consider criminal allegations against defendant. Defendant "was not", and "could not" be provided transcript of the recorded testimony or proceedings to challenge "alleged" indictment, in that there was "no transcript" because the State Grand Jury had not convened on dates of "alleged" indictment. (4-12-16, 4-13-16). Defendants due process of law was violated. Defendant had not been provided discovery in violation of constitution, statute, and rule. Therefore, defendant presents clear and indisputable proof of violations of the Fifth Amend. and Fourteenth Amend. of the United States constitution, and violations of Article 1. §11, Article 5. §22, and Article 1. §3 of South Carolina State constitution. Defendant ASK that writ be issued in light of various constitutional, and statutory violations.

I, Emory Warren Roberts Jr., being duly sworn upon my oath,
depose and say that all herein is true under the penalty
of perjury.

Sincerely,
Emory W. Roberts Jr.
Emory Warren Roberts Jr.

Certificate Of Service

The undersigned hereby certifies that a true copy of Defendants "Petition For Issuance Of Writ Of Mandamus" has been served upon Joshua R. Underwood, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC, 29201, and that "Orders Relieving both, trial counsel, and Appellate Defender have been sent to Attorneys, as well as notarized orders (Pro Se Motion) relieving trial counsel, and appellate Defender has been sent to "Supreme Court of South Carolina."

Emory W. Roberts Jr.
Pro Se

I, Emory W. Roberts Jr.,

being duly sworn upon my oath, depose and say that all herein is true under the penalty of perjury.

C.C. Mrs. Erica Felder
Mrs. Vickie Crafton

Desiree Allen

10/16/17

Court Reporter Manager

(Pursuant to Section 14-7-1700)

Hello, how are you? I'm writing to you to obtain a transcript/or name of Court Reporter that may or may not have been appointed to record a "State Grand Jury proceeding that may have occurred on the dates of April 12-13, 2016 in Richland County. (State Grand Jury Of South Carolina vs. Emory W. Roberts Jr.) (Case No. 2016-GS-47-02/2016-GS-47-03)

I would like the name of the Court Reporter so that I may purchase a transcript if one for those dates are available, thanking you kindly for your time concerning this matter, looking forward to your reply A.S.A.P., thanks again, enjoy your day.

I Ask that you may provide the Court Reporters Name and Address so that I may request transcript And obtain the cost that I may make the funds available, thank you.

Sincerely
Emory W. Roberts Jr.

Shows the
written while
in custody of
Requesting State
Information

Hill Finkley Detention Center
I.D. Number

2016003071



South Carolina Court Administration
South Carolina Supreme Court
Columbia, South Carolina

TONNYA K. KOHN
INTERIM DIRECTOR

1220 SENATE STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201

October 23, 2017

Emory W. Roberts #2016003071
Kirkland Reception and Evaluation Center
4344 Broad River Rd.
Columbia, SC 29210-4098

Dear Mr. Roberts:

I am writing in response to your letter dated October 16, 2017, requesting a copy of a transcript from a State Grand Jury proceeding that "may have occurred on the dates of April 12-13, in Richland County." In order for me to assist you in obtaining the transcript of record from your proceedings, please provide the following information:

- 1) **presiding judge;**
- 2) **exact date (with year) of hearing.**

This information is required in order for us to assist you. When this information is received we will forward the request to the court reporter, who will then contact you to make arrangements for payment and delivery of the transcript. Please be advised that court reporters have 60 days to prepare a transcript after satisfactory payment arrangements have been made. Please contact this office at your earliest convenience with this required information.

Sincerely,

Desiree Allen
Court Reporter Manager

Desiree Allen

Court Reporter Manager,

10/31/17

I Am writing to you in response to your letter dated October 23, 2017, requesting a copy of a transcript from a "State Grand Jury proceeding that" may have occurred on the dates of April 12-13, 2016 in Richland County. (Pursuant to Section 14-7-1700)

Presiding Judge: Newman, C - OF State Grand Jury

Date: April 12-13, 2016

Warrant Numbers: 2016-GS-47-02 > Were These Warrant #s submitted
2016-GS-47-03 To A State Grand Jury For Indictment

IF, indeed there was a transcript for those dates, and my request has been forwarded to the Court Reporter, as a courtesy will you make me aware of the existence of the transcript, and as you have done with my previous correspondence make a copy of my request and send back to me? This way I can be in anticipation of receiving/or knowing if the transcript will be available within the next sixty days, and I'll have a copy of my dated request, thanking you in advance, please enjoy your day.

Thanks Again!

Sincerely,

Emory W. Roberts Jr.



South Carolina Court Administration
South Carolina Supreme Court
Columbia, South Carolina

TONNYA K. KOHN
INTERIM DIRECTOR

1015 SUMNER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201

November 6, 2017

Emory W. Roberts, Jr. #373393
Kirkland Reception and Evaluation Center
4344 Broad River Rd.
Columbia, SC 29210-4098

Dear Mr. Roberts:

Your inquiry has been received by this office. The convening of the State Grand Jury is not dependent upon a term of General Sessions court and often does not meet at the same time as General Sessions terms. You are requesting a transcript from State Grand Jury proceedings. This is to advise that there is no court reporter assigned to record Grand Jury proceedings, and therefore, there is no transcript available.

I am sorry that we are unable to assist you further.

Sincerely,



Desiree Allen
Court Reporter Manager

W. Roberts 373393
Correctional Institution
Wilborn Ave.
Orangeville, S.C. 29472

RECEIVED

MAR 28 2019

MAIL ROOM
LIEBER C.I.

The Supreme Court of South Carolina
Daniel E. Shearouse, Clerk of Court
Post Office Box 11330
Columbia, South Carolina, 29211

FOR LEGAL USE ONLY