

RECEIVED

MAY 23 2019

S.C. SUPREME COURT

Attachments

5/20/19

1. Correspondence by defendant to Court Admin. dated 10/16/17
2. Correspondence to defendant from Court Admin. dated 10/23/17
3. Correspondence by defendant to Court Admin. dated 10/31/17
4. Correspondence to defendant from Court Admin. dated 11/6/17
5. Document from Clerk of Court, Mary P. Brown Filed 1/31/18
6. Document from Clerk of Court, Mary P. Brown Filed 7/6/16

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MAY 23 2019

SC Court of Appeals

①

The Supreme Court of S.C.

(Case No. 2016-GS-47-02/03)

State Grand Jury Of South Carolina

State Of South Carolina

Vs.

Emory Warren Roberts Jr.,

Defendant.

Re: Pro Se Motion/Petition For

Redress of Grievances,

Article III of Constitution.

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: 5/20/19

C.C. Office of the Attorney General

Joshua Underwood, Post Office Box 11549

Columbia, South Carolina 29211-1549

Placed in U.S. Mail on 5/20/19, in regards

to service.

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MAY 23 2019

SC Court of Appeals

Statement of Issue

②

① "Whether "extraordinary circumstances" exist for this Court to entertain original jurisdiction of defendants case when facts support the proof of the violations of Article 15. (State Grand Jury Act), pursuant to section 14-7-1720(D), by Assistant Attorney General, Joshua Underwood?"

② "Whether A.A.G. committed "Fraud on the Court" when pursuant to section 14-7-1750, twelve or more state grand jurors had not met to find that probable cause existed for indictments 2016-GS-47-02/03 and still commenced prosecution under fraudulent indictments?"

③ "Whether A.A.G. is in violation of section 14-7-1650. (Duties and Obligations of Attorney General), when A.A.G. did not "examine witnesses", and "draft indictments" and "reports" upon the direction of a state grand jury, as well as "present evidence"?"

④ "Whether A.A.G. commenced state prosecution in bad faith or to harass, creating a threat of "irreparable injury" both "great and immediate" to defendant in regards to his unlawful imprisonment and violation of civil liberties?"

⑤ "Whether 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?"

Argument

1. Assistant Attorney Generals for the State violated defendant's rights to the Fifth Amend. to the U.S. Constitution, Art. 1, § 11, and Art. 5, § 22 of State Constitution, and the provisions of Article 15, State Grand Jury Act causing "irreparable injury" to defendant both great and immediate.
2. Loss of First Amendment rights, for even minimal periods of time, unquestionably constitutes "irreparable injury" of kind required to permit issuance of preliminary injunction, it is the right of defendant to "Petition For Redress of Grievances."

③

Relevant Facts

On April 12-13, 2016, Assistant Attorney Generals did not comply with the laws, statutes, and provisions applicable to Article 15, State Grand Jury Act. Defendant was held for trial in the Berkeley County Court of General Sessions on July 24-28, 2017. At trial, pursuant to statute, before a jury being sworn, defendant requested "impanelment documents from the State Grand Jury. (Tr. Date July 24, 2017, Page 15, Lines 5-6, see also: Page 19, Lines 8-12). Upon request of the minutes from State Grand Jury proceedings, defendant was "denied" impanelment documents" by the trial judge. (Tr. Date July 24, 2017, Page 15, Lines 7-9).

A.A.G. then stated: "The defendant is able to read them. However, we do not give them a copy. They would have to get them from the court reporter who takes those transcripts." When defendant explained to the trial judge that he had wrote to Court Administration in regards to attempt to obtain the transcript, and that Court Admin. responded that "no court reporter was assigned to record grand jury proceedings, therefore" no transcript was available, the trial judge told defendant that he was requesting transcript from the wrong entity. (Tr. Date July 24, 2017, Page 15, Lines 15-18; Lines 19-25; Page 16, Lines 1-25.) See also: Page 17, Lines 1-25). See also: Page 18, Lines 1-5 (emphasis added). (Also see: Correspondence from Desiree Allen (Court Reporter Manager) date October 23, 2017 and November 6, 2017.) (Enclosed). On date's of "alleged" indictments (April 12-13, 2016) there was no court reporter that had been assigned to record any grand jury proceedings in reference to indictment numbers 2016-GS-47-02/03. See Enclosure.

Discussion

"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.

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

Pursuant to Article 15. S. G. J. Act, Section 14-7-1650. (Duties and the obligations of Attorney General), which states: "The Attorney General or his designee shall "examine witnesses", "present evidence", and draft indictments and reports upon the direction of a state grand jury."

A. A. G. being in violation of provisions of Article 15. Section 14-7-1720 (D) had not complied with Section 14-7-1720(A) and (D) and Rule 5, South Carolina Rules of Criminal Procedure. (See Correspondence from Court Admin. dated October 23, 2017 and Nov. 6, 2017).

As there was no court reporter assigned to record grand jury proceedings on date's of defendant's "Alleged" indictments, thereby "no transcript being available, A. A. G. violated provision of S. G. J. Act, Section 14-7-1700, which states: "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." (See Enclosure)

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Further, A.A.G. violated provision/section 14-7-1750. of a State Grand Jury Act, which states: "In order to return a "true bill" of indictment, twelve or more state grand jurors must find that probable cause "exist" for the indictment and vote in favor of it."

In violation of statute, state grand jury had not met to consider criminal allegations against defendant, thereby A.A.G. committing "Fraud on the Court."

Section 14-7-1720.(D) "Penalties", states: "Any person violating the provisions of this section is guilty of a misdemeanor, upon conviction, must be punished by a fine not exceeding five thousand dollars or by a term of imprisonment not exceeding one year or both."

In limiting the judicial power to "cases" and "controversies" Article III of the Constitution restricts it to the traditional role of Anglo-American courts, which is to [redress] or [prevent] actual or [imminently threatened] [injury] to persons caused by [private or official violation of law.]

Summers v. Earth Island Institute

Supreme Court of the United States, March 03, 2009 555 U.S. 488 129 S.Ct. 1142.

Loss of First Amendment rights, for even minimal periods of time, [unquestionably] constitutes "irreparable injury" of Kind required to permit issuance of preliminary injunction.

Giovani Cacandola, Ltd. v. Bason

United States Court of Appeals, Fourth Circuit, August 30, 2002 303 F.3d 507 2002 WL 1997902.

(6)

[Amend. 1. Petition for Redress of Grievance's.]

The question of subject matter jurisdiction is a question of law.

Gantt v. Selph

Supreme Court of South Carolina. May 30, 2018 423 S.C. 333
814 S.E. 2d 523.

Accordingly, [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.

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 S.C. 441, 527, SE 2d 105 (SC 2000); State v. Durden, 264 S.C. 86, 212 SE 2d 587 (1975); State v. King, 222 S.C. 108, 71 SE 2d 793 (1952).

In addition, "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

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provisions." Montgomery V. State, 55 FLA. 97, 45 So. 879.

Conclusion

Article III of the Constitution allows for a Petition for redress of grievances to prevent actual or imminently threatened injury to persons caused by private or official violation of law.

A.A.G. being in violation of the provisions of a State Grand Jury Act, as well as Constitution, statute, and rule has caused irreparable injury to defendant of kind required to permit issuance of preliminary injunction. The jurisdiction of a court over the subject matter of a proceeding is determined by the Constitution, the laws of the State, and is fundamental. On April 12-13, 2016, the dates of defendant's "alleged" indictments, defendant presents exculpatory evidence from Court Administration that a state grand jury had not convened in order to return true-billed indictments against defendant. Assistant Attorney Generals failed to comply with statutory and constitutional law, jurisdictional in nature, specifying the manner and means for lawful return of true-billed indictments. A.A.G. commenced state prosecution in bad faith or to harass, creating a threat of "irreparable injury" both great and immediate" to defendant in regard to his unlawful imprisonment, wherein a greater danger to personal security is posed, and violation of civil liberties. Defendant asks this Court to vacate judgment in strict conformity to the laws of this State.

Desiree Allen
Court Reporter Manager

10/16/17

Hello, how are you? I'm writing to you to obtain a transcript/or name of Court Reporter that may have been appointed to record a "State Grand Jury" proceeding that may have occurred on the dates of April 12-13, 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.

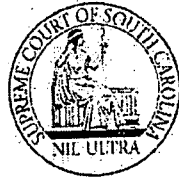
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MAY 23 2019

SC Court of Appeals

Shows the
Written while
in County Jail
Requesting Same
Information

Hill Finklen Detention Center
I. D. Number
2016603071



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.

Presiding Judge: Newman, C - Of State Grand Jury

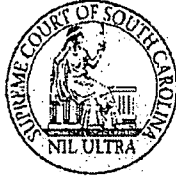
Date: April 12-13, 2016

Warrant Numbers: 2016-GS-47-02
2016-GS-47-03 > were These Warrant # submitted
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

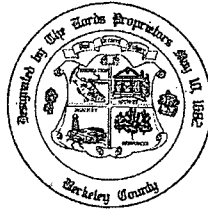
Dear Mr. Roberts:

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



**MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY**

GENERAL SESSIONS COURT
POST OFFICE BOX 219
MONCK'S CORNER, SOUTH CAROLINA 29461-0219
(843) 719-4400 (843) 567-3311 (843) 723-3800

TO: Emory Roberts

RE: _____

The enclosed document is being returned for the following reason(s):

_____ This Order needs to be sent to Berkeley County General Sessions Administrative Judge for Signature.

_____ Requires original signature.

_____ This document is a copy. We must file original.

_____ We do not do criminal records check.

This is not a Berkeley County Case.

_____ Please provide case number.

_____ Attached is the requested information.

_____ Contact Court Administration for transcript at the following address:
1220 Senate Street, Suite 200, Columbia, SC 29201-3739

_____ Information may be obtained from our web-site at www.berkeleycountysc.gov.

Other We can't clock this due to the fact that this is a Richland County Case. You will need to send it to them

Please make the necessary corrections and return this document for filing.

Thank you for your assistance.

Staff Initials 1/31/18

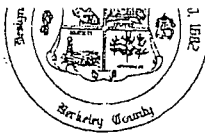
Date PKL

MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

2018 JAN 31 AM 11:22

FILED

(Newly Discovered Evidence)
& Attempted To File,
Desires Allen (Correspondence)
last Admin.



MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY

GENERAL SESSIONS COURT
POST OFFICE BOX 219
MONCK'S CORNER, SOUTH CAROLINA 29461-0219
(843) 719-4400 (843) 567-3311 (843) 723-3800

TO: Emory Roberts
RE: Jurisdiction

The enclosed document is being returned for the following reason(s):

- This Order needs to be sent to Berkeley County General Sessions Administrative Judge for Signature.
- Requires original signature.
- This document is a copy. We must file original.
- We do not do criminal records check.
- This is not a Berkeley County Case.
- Please provide case number.
- Attached is the requested information.
- Contact Court Administration for transcript at the following address:
1220 Senate Street, Suite 200, Columbia, SC 29201-5739
- Information may be obtained from our web-site at www.berkeleycountysc.gov.

Other SLED has jurisdiction over you. We here @ the Clerk office have no info. You need to contact BCSO

Please make the necessary corrections and return this document for filing.
Thank you for your assistance.

Staff Initials PL

Date 7-6-16

2016 JUL -6 AM 11:25
FILED
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

Emory W. Roberts Jr. 373 393
Lieber Correctional Institution
136 Wilborn Ave.
Ridgeville, S.C. 29472

RECEIVED
MAY 21 2019
MAIL ROOM
LIEBER C.I.

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

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