

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

RECEIVED

JUN 04 2019

SC Court of Appeals

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

v.

State of South Carolina,.....Respondent.

MOTION TO ACCEPT APPELLANT RECORD ON APPEAL
WITH OUT COPIES OF HIS TRIAL TRANSCRIPT

The Appellant files this Motion along with his Amended Record on Appeal as presented without his trial transcript. The Appellant respectfully asks that this Court accept the Amended ROA sans the transcript for the following reasons:

(1) The Appellant no longer has a complete copy of his transcript; (2) SCDC Policy requires that he have the funds in his Cooper Account before it will make any copies; (3) at a cost of 25 cents per page he would be required to have more than \$250 in his account to cover two sets with 500 plus pages; (4) Both this Court and the State should have copies of the transcript from previous appeals and they should be available electronically; (5) This Court's decision in this case is not likely to be dependant on the transcript; and (6) Should the State claim that the Appellant made a voluntary and informed waiver of his Constitutional right to notice by legally valid indictments, it should bear the burden of proof supported by pertinent pages that such waiver was made in open court and documented in said transcript.

Respectfully submitted,

Cedric L. Woods

Cedric L. Woods, #265789

Pro se

STATE OF SOUTH CAROLINA
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Court of Common Pleas

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SC Court of Appeals

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

v.

State of South Carolina,.....Respondent.

AMENDED RECORD ON APPEAL

Cedric L. Woods
PRO SE
ACI F3B-64
PO Box 1151
Fairfax, SC 29827

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Ms Harley Littleton Kirkland, Esq.
Mr Wesley Aaron Vorberger, Esq.
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Columbia, SC 29211-1549

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STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Thomas E. Cooper, Circuit Court Judge

State of South Carolina Respondent

v

Cedric L. Woods #265789 Appellant

INITIAL BRIEF OF APPELLANT

Case No 2016-DD2367

RECEIVED

OCT 03 2017

SC Court of Appeals

Cedric L. Woods #265789
Pro se Appellant
F 3 B 14 Allendale Corr. Inst.
PO Box 1151
Fairfax SC 29827-1151

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STATEMENT OF ISSUE ON APPEAL

1. Did the Solicitor of the Second Judicial Circuit Aiken County South Carolina commit procedural error by unlawfully impaneling the County's Grand Jury outside the Statute of Law S.C. Code § 14-5-630(1)?

STATEMENT OF THE CASE

The Appellant was indicted by the Aiken County Grand Jury for Criminal Sexual Conduct First Degree, Kidnapping, Burglary First Degree, Attempted Armed Robbery, and four (4) counts of possession of a weapon during the commission of a violent crime.

The jury convicted the Appellant of Assault and Battery of a High and Aggravated Nature, Kidnapping, Burglary First Degree and Attempted Armed Robbery. The jury found the Appellant not guilty on all four (4) counts of possession of a weapon during the commission of a violent crime.

The Honorable Thomas W. Cooper, Jr. sentenced the Appellant to thirty (30) years for Burglary First Degree, ten (10) years for Assault and Battery of a High And Aggravated nature to run consecutive to the Burglary sentence; twenty (20) years for the Attempted Armed Robbery, concurrent, and thirty (30) years for Kidnapping, concurrent.

ROA 5

FACTS

The Solicitor of the Second Judicial Circuit Aiken County, South Carolina, did unlawfully impanel and convene the Aiken County Grand Jury during the months of February and April in the year 2000; outside of the specified mandated terms of the General Sessions Court as set forth within S.C. Code §14-5-630(1) which is codified by S.C. Code §14-9-210; and in/by doing so thereby produced invalid and fraudulent instruments of indictment against the Appellant.

I ARGUMENT

Because the Respondent's representative, the Solicitor of the Second Judicial Circuit Aiken County, South Carolina, failed to comply with the laws of South Carolina S.C. Code Ann. §14-9-10, and §14-5-630(1) and did unlawfully impanel a Grand Jury in Aiken County South Carolina and indicted by vote of the unlawfully impaneled, the whole proceeding from the fraudulent Bill to the Appellant's committal to his present custody is challenged as void in law.

ROA 6

ARGUMENT

The Appellant contends and asserts that the Aiken County Solicitor committed a procedural error, and fraud upon the Court, Second Judicial Circuit Aiken County, by unlawfully impaneling it's Grand Jury outside of the Legislated Statute of Law SC Code Ann. §14-5-630(1). This establishes the thesis of lack of subject matter Jurisdiction. The opinion of the South Carolina Supreme Court in Ex parte Lilly, 7SC 372 (1876), as given by Chief Justice Moses, and Justices Wright and Willard in concurrence, "Where the term of a Circuit Court, as fixed by law, has expired, the Judge has no power... to continue it's existence convene it at another time and proceed to the trial of the case." As this is absolute for a Judge, so it is also applicable to the County Solicitor, in the terms and sense of convening a Grand Jury and session or term of Circuit Court.

This Fraud committed upon the Court by the Solicitor, establishing such procedural error and creating the lack of subject matter Jurisdiction of the Court by the unlawful impanelment of the Grand Jury outside the jurisdiction of the law and Court of General Sessions Second Judicial Circuit violates the South Carolina Constitution Art I §3; and the U.S. Constitutional Amendment FOURTEEN (14), both of which expressly detail due process and equal Protection of laws.

The equal protection Clause in this section of the South Carolina Constitution means that no person or class of persons shall be denied the protection of laws enjoyed by other persons or classes. (See [ROA7] Harrison v Caudle, 141 SC 407 (1927))

This section of the South Carolina Constitution is in place to ensure that the laws of South Carolina as enacted and set in place are applied to all equally. The State has broken and violated it's own law, therefore prejudicing the Appellant by denying him equal protection of law in and by permitting him to be indicted, tried and convicted before a South Carolina State Court of law based on a Procedural error and fraud of and by the state's officer of the Court in place -

Based on this same principle and circumstance of events, the three justices in Lilly, id ruled "In our judgement the proceeding by which the prisoner has been convicted and committed to the Penitentiary is without legal authority." As the case of Lilly, id presents, the indictment, and true billing, trial convening of the Grand Jury, all were done illegally, and without legal authority.

South Carolina Code Ann § 14-9-210 sets forth the jurisdictional requirements for the legal convening of a County/Circuits Grand Jury stating it shall be during the terms of the General Sessions Court for that County/Circuit. As cited in Lilly, id "Full and ample provisions have been made for ... terms of the Court of General Sessions and Common Pleas in aid of the expeditious disposition of all business which may be brought before them ... Continuing each Court of a circuit in session from day to day until the time fixed by law for it's next meeting is inconsistent with the statutes which prescribe the time to be allotted..."

The terms of the General Sessions Circuit Court for the Second Judicial Circuit, Aiken County are unambiguously mandated in S.C. Code Ann. § 14-5-630(1) as the Second Monday in January for two (2) weeks, first Monday in May for three (3) weeks and the

ROA 8

first Monday in October for two (2) weeks. The Aiken County Solicitor and Grand Jury of the Second Judicial Circuit did ~~not~~ adhere to or comply with these statutes of law, as the offense of the Appellant was tried and convicted upon the basis of fraudulently obtained indicting instruments/documents bearing February and April 2000 dates. In this case of the Appellant, the record shows dates of: 1) February 24, 2000 as a hand written not stamped "True Bill" with Foreperson's signature. This same instrument "of the State and Court" shows in the body a February 28, 2000 date as "... a Court of General Sessions Convened on February 28 2000 the Grand Jurors of Aiken County present upon their oath ..." (emp. added), indicating the Circuit Court was convened / in "term" or "session" and swearing upon their oath the Grand Jurors of the Second Judicial Circuit Aiken County heard testimony of the witness and voted to indict the Appellant on that date, outside of the terms of mandated statutory law AND four (4) days AFTER the instrument had been hand written and signed on February 24 as true Billed. It is literally impossible for the Appellant to be True Billed indicted four (4) days prior to the Grand Jury's convening, and even if in the terms of the statute, shows an intentional fraud upon the Court. (See Exhibit 1 of 2 front and back).

2) March 30 2000 as a hand written - not stamped "True Bill" with Foreperson's signature. This same instrument "of the State and Court" shows in the body a April 10 2000, date as "... a Court of General Sessions Convened on April 10 2000 the Grand Jurors of Aiken County present upon their oath ..." - This.

Just as the aforementioned has been obtained by fraudulent pretense, and ELEVEN DAYS prior to the alleged "convicting", was True Billed by hand-written markings and signature of foreperson of the Grand Jury. (See Exhibit 2 of 2 front and back).

These exhibits confirm a blatant and flagrant disregard for the laws of South Carolina, and as well the procedural errors and fraudulent obtaining of the Appellant's indictment and conviction which now has obligated the Appellant to a unlawful incarceration as well as the collateral consequence of a statutory mandated sex registry affiliated with a charge of Kidnapping even though there were no sexual findings of any sort connoted.

This registry requirement rest on an unreasonable basis. The State failed to produce any scientific and/or biological evidence proving that the Appellant committed any act requiring such registry as DNA test / kit results proved negative. It was ruled in Hendrix v Taylor, (SC 2003) 353 SC 542 that "a registration requirement should rest on a reasonable basis under the equal Protection Clause of due process." (emph. added).

In light of this, the thesis of the Court not having subject matter jurisdiction, or jurisdiction period / at all, becomes applicable as the Court had no legal authority to hear, try and convict the Appellant as the indicting instruments were obtained by false, fraudulent and contemptuous Pretense by the State of South Carolina, Aiken County Second Judicial Circuit. This is a clear and unambiguous violation of South Carolina law and South Carolina Constitutional Law Art. I §3, Due Process, and US Constitutional Amendment FOURTEEN (14) Due Process and Equal Protection.

As established in the aforementioned, S.C. Code Ann. § 14-9-210 and § 14-5-630(1) are clearly jurisdictional statutes of law in South Carolina and set forth mandatory procedures to be utilized by the State and Solicitor for the lawful return of a TRUE BILL indictment. A substantial body of South Carolina Court rulings and case law hold that a failure to comply with statutory law jurisdictional in nature deprives the Court of subject matter jurisdiction. See State v Brown, 351 SC 522, State v Lofton 76 SC 48, and State v Castleman, 219 SC 136.

Black's Law Dictionary defines "Subject Matter Jurisdiction" as "Jurisdiction over the nature of the case and type of relief sought; the extent to which a Court can rule on the conduct of persons or the status of things."

In keeping with the mandated legislated intent of SC Code Ann § 14-9-210 and § 14-5-630(1), the Solicitor and/or State has no jurisdiction to issue/return nor authority to manifest and or produce a true billed indictment except during a time when the Circuit Court of General Sessions is lawfully convened to oversee the Grand Jury Process. Any action(s) of such a nature taken outside of the aforementioned statutory regulatory laws would by necessity be deemed illegal, null and void.

The South Carolina Supreme Court has 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 a lawful indictment can take place.", as ruled

The Appellant has established by the attached exhibits evidence that the state of South Carolina, Solicitor of Aiken County, unlawfully impaneled it's Grand Jury outside the terms and jurisdiction of the Second Judicial Circuit Aiken County Court of General Sessions and did willfully print and publish a fraudulent indictment instrument against the Appellant.

The Legislature of South Carolina did not enact a provision in SC Code Ann 14-5-630(1) for a term of General Sessions Court for February, March, or April. By the dates on the indicting instruments, the Solicitor of Aiken County impaneled it's Grand Jury in the Court of Common Pleas which has ~~no~~ authority to act upon Criminal Indictment(s) or it's processes to return a true bill criminal indictment. See South Carolina Constitution Art V § 1, and Dove v Gold Kist Inc. 314 SC 235.

By the South Carolina Statute of Law § 14-5-630(1), only the Court of Common Pleas, Aiken County shall be held on the Fourth (4th) Monday of February for a term of two (2) weeks. This confirms the indictment for Kidnapping as having been done by Common Pleas Court term, as by Perpetual Calendar the year 2000, the Fourth Monday of February is the date of the 28th. (See exhibit 1 of 2)

The same is true for the Appellant's indictment for Possession of Firearm or Knife during Commission of or attempt to commit a violent crime. SC Code Ann. § 14-5-630(1) stipulates Common Pleas Court Convening on the Second Monday in April

for one (1) week. This indictment of April 10 2000 was done on the Second Monday. This again confirms indictments were hand down during terms of the Common Pleas Court of Aiken County rather than General Sessions as required by law; and both were hand written as True Billed four, (4), and eleven (11) days prior to a "Convened Grand Jury" respectively.

In Gauthier v United States, 413 F2d 1061 the Court ruled that "twelve (12) jurors must vote upon the indictment to render a valid indictment and True Billed instrument". Based on the evidence as displayed in both exhibits the Fore Person made a conscious decision to sign and True Bill a legal instrument fraudulently prior to any Grand Jury, and indict the Appellant outside the presence of a full Grand Jury Panel.

As ruled in Pringle v State, 287 SC 409 (1986), "the Stamped application of True Bill on the indictment form was taken as conclusive proof that the twelve (12) member Grand Jury panel had voted to indict the defendant." In the instance of the Appellant, this cannot be determined as to the authenticity and validity of the instrument as the Fore Person of the Second Judicial Circuit Aiken County Grand Jury did commit fraud, obstruction of justice, conspiracy to commit official misconduct and Contempt of Court by violating the aforementioned statutes of law, the Articles of the South Carolina Constitution, the United States Constitution and by violating and denying the Appellant's procedural due process and equal Protection rights.

ROA 13

CONCLUSION

When a Legislative enactment sets and determines the manner in which something may be done the enactment also evinces the intent that it shall not be done another way. Therefore, since the Second Judicial Circuit Court and Solicitor for Aiken County utilized an unlawful mode of Procedure not allowed under SC Code Ann § 14-9-210 as well as 14-5-630(1) regulating Aiken County General Sessions Court, the State and the Court lacked the requisite jurisdiction to complete and return a lawful true billed indictment and subsequent conviction and committal to incarceration.

For the reasons stated herein the Appellant request this Honorable Court grant the Appellant relief through and by vacating his conviction and sentence, removal of the mandated registry based on the procedural due Process denial, lack of subject matter jurisdiction, denial of equal Protection, the state's violation and non-compliance with South Carolina Statutory and Constitutional law and in the interest of justice.

Respectfully Submitted,

Cedric L Woods

Cedric L Woods

September 28, 2017

ROA 14

STATE OF SOUTH CAROLINA
In The Court of Appeals

ROA/5

APPEAL FROM AIKEN COUNTY

RECEIVED

OCT 03 2017

Court of General Sessions

SC Court of Appeals

Thomas E. Cooper, Circuit Court Judge

Case No. 2016-002367

State of South Carolina

Respondent

✓

Cedric L. Woods #265789

Appellant

PROOF OF SERVICE

I, Cedric L. Woods #265789, pro se Appellant, certify that I have served the Initial Brief of Appellant on the Respondent, the South Carolina Attorney General's Office, Attorney for Respondents, by depositing a copy of same in the United States Mail, using the mailroom services as provided by/at the South Carolina Department of Corrections' Allendale Correctional Institution, 1057 Revolutionary Trail, Fairfax, South Carolina 29827, First-Class Postage Pre-Paid, addressed to: The South Carolina Attorney General's Office, P.O. Box 11549, Columbia S.C. 29221-1549, on September 28, 2017.

Cedric L. Woods

Cedric L. Woods, pro se
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Fairfax SC 29827

Cedric L. Woods #265789
F3 B14 Allendale Com Inst
PO Box 1151
Fairfax SC 29827

September 28 2017

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Clerk of Court
PO Box 11629
Columbia SC 29211

Re: Case No.: 2016-002367

State of South Carolina v Cedric L. Woods #265789

Dear Honorable Clerk:

Enclosed for filing with the above referenced
is the Appellant's "Designation of Matter to
Be Included in The Record on Appeal".

The Respondent has been served as indicated
by and within the enclosed Proof of Service.

Thank you for your assistance in this matter.

Sincerely,

Cedric L. Woods

Cedric L. Woods
Prose Appellant

Encl.

ROA 16

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM AIKEN COUNTY
COURT OF COMMON PLEAS

RECEIVED

AUG 21 2018

SC Court of Appeals

The Honorable Robert E. Hood, Circuit Court Judge

Appellate Case No. 2016-002367

Cedric L. Woods, # 265789,

Appellant,

v.

State of South Carolina,

Respondent.

APPELLANT'S AMENDED INITIAL REPLY BRIEF

ROA 17

The Appellant concedes that this appeal stems from the denial of his Motion for Declaratory Judgment case in 2014. He also concedes that the trial court was vested with jurisdiction to try his case. Also, he is not challenging the sufficiency of the indictments against him, but is challenging that the indictments were fraudulent and that the grand jury that returned them was without jurisdiction and as such, an illegal body and was void and a nullity as were the indictments it returned, which failed to give the required notice demanded by due process of law.

Prima facie evidence right on the faces of the indictments complained of shows that not only were they fraudulent, as the dates signed by the foreperson were four and ten days prior to the terms of court stated on the face and the terms are themselves in conflict with State law. See § 14-5-630(i)

There was no term of general sessions for Aiken County on these dates, however, as mandated by the Legislature, there were terms of court for the Aiken County Court of Common Pleas on each of those dates. Since both general sessions and common pleas courts cannot convene at the same time in the same county, this is evidence of fraud and a lack of jurisdiction of the grand juries.

The court of common pleas is vested with no authority to take any actions on matters pertaining to return of true bill indictments. Thus there is no grant of concurrent jurisdiction and therefore no true bill criminal indictments can be lawfully issued through grand jury proceedings held before a court of common pleas. See *Dove v. Gold Kist Inc.*, 442 SE2d 598, @600, (1994).

St. v. McClure, 289 SE2d 158, (1998). "No indictment may be true billed when the circuit court lacks jurisdiction since the grand

ROA 18

jury is co-extensive with the criminal jurisdiction of the court it is impaneled and for which it is to make inquiry "

"The law requires presentment of a grand jury as a condition precedent to the trial of a crime..., St. v. Beachem, 342 SE2d 597, (1986) - A conviction obtained without presentment of a grand jury will be voided on appeal. " St. v. Hann, 12 SE2d 720 (1940) See also S.C. Const. art I, § 11.

Hann, went on to say, "[t]he same principle,... applies to an attempted conviction without the verdict of a petit jury. As we apprehend, it is the application of this principle that the courts hold... that those who acted as either grand jurors or petit jurors, are so contrary to the law that either jury cannot be said to have any legal existence, the conviction is a nullity."

Post-Gentry, indictments are viewed as "notice documents," and while they do not confer jurisdiction upon the trial court, they have not been dispensed with. In St. v. Means 626 SE2d 348, (2006) the Court held that post-Gentry "analysis remains largely the same as it did under pre-Gentry law, although it is now driven by concepts of notice and due process. A defendant has a constitutional and statutory right to demand a properly constituted grand jury consider his case...."

This Appellant asserts that the two grand juries were impaneled during a court of common pleas, not a court of general sessions, therefore they had no legal jurisdiction as pointed out in Dove, supra, and as the Appellant comprehends Hann, supra, legally, these grand juries did not exist and thereby he was tried for crimes without presentment of grand juries and his sentences and convictions should be voided.

ROA 19

This Appellant has a very limited amount of time to do research in a very inadequate law library at Allendale Correctional, but has found a legal term that might apply to this case. The term "excess of jurisdiction" might well apply here.

"Excess of jurisdiction, as distinguished from the entire absence of jurisdiction, means that the act, although 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." - O'Loughlin v Windham, 498 SE2d 689 (Ct. App. 1998) citing 46 Am. Jur. 2d, Judges § 82 and St. v. Johnson, 489 SE2d 228, (Ct. App. 1997).

Even though the trial court had jurisdiction in general, the fact that no legal presentment to a legal grand jury existed as a condition precedent to trial, therefore the trial and verdict, as well as the sentence and conviction are voidable.

The State has argued that the Appellant's issue is not preserved for appeal or appellate review. Because jurisdictional claims may be raised at anytime, even for the first time on appeal, or "can be raised sua sponte by [this Court]," the Appellant asserts that this Court is allowed by precedent to hear and decide his claim. See Brown v. St. 570 SE2d 559 (2002) and Anderson v. St. 527 SE2d 398 (Ct. App. 2000).

Similarly to this case, Anderson was appealing the denial of a writ of mandamus asking to compel the clerk of court to provide him "copies of grand jury transcripts, list of jurors who considered his indictment, and documentary proof that the grand jury was qualified by a circuit court judge in open court...." This Court

ROA 20

denied the mandamus, but Anderson had also raised the issue of jurisdiction by requesting a hearing to determine if the trial court that tried him for murder was vested with jurisdiction.

Anderson cited the absence of the term "true bill" on the face of the indictment against him as grounds for the hearing. Like Anderson, this Appellant has had no success in obtaining access to his grand jury documents. This Court remanded Anderson's case for a hearing to determine if his trial court was vested with jurisdiction, and held that "the State shall bear the burden of proving subject matter jurisdiction."

While as stated above, this Appellant concedes that while his trial court had jurisdiction, the grand jury that issued his indictments did not have jurisdiction and were a nullity as were the indictments and as such he was denied his constitutional and his statutory right to demand a properly constituted grand jury and presentment as a condition precedent to trial and the State should as in Anderson, bear the burden of proving otherwise.

Conclusion

For the foregoing reasons, this Appellant respectfully asks that this Court remand his case for an "Anderson hearing" and that he be appointed counsel for the hearing and that the State be required to prove the legality of his grand jury with sufficient evidence and should it be unable to do so, or if it concedes, that this Court vacate his sentences and convictions and any other such relief as this Court should deem just and fair.

Respectfully submitted,

Cedric L. Woods, # 265789

Cedric L. Woods, # 265789

Pro se

ROA 21

Citations

Anderson v. St.,	527 SE2d 398 (ct of App. 2000)
Brown v St.,	570 SE2d 559 (2002)
Dove v. Gold Kist Inc.,	442 SE2d 598 (1994)
O'Laughlin v Windham,	498 SE2d 689 (ct App 1998)
St v Beacham,	342 SE2d 597 (1986)
St v Hann,	12 SE2d 720 (1940)
St v Johnson,	489 SE2d 228 (1997)
St v Means,	626 SE2d 348 (2006)
St v McClure,	289 SE2d 158 (1982)

46 Am. Jur. 2d, Judges § 82

§ 14-5-630 (1). Terms of court for the 2nd circuit

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.

RECEIVED

AUG 21 2018

SC Court of Appeals

Cedric L. Woods, # 265789,

Appellant,

v.

State of South Carolina,

Respondant.

PROOF OF SERVICE

I certify that I, Cedric L. Woods, #265789, have on this
the 16TH day of August, 2018, Served a copy of my Appellant's
Amended Initial Reply Brief to the Attorney General's office
and to the South Carolina Court of Appeals.

Respectfully submitted

Cedric L. Woods, #265789

Cedric L. Woods, #265789

Pro se

ROA 23

WITNESSES

H. Nimau, A.C.S.O.

FILED

Feb 19, 2000

[Signature]

Deputy Clerk

ARREST WARRANT NUMBER

131704

ACTION OF GRAND JURY

[Signature]

[Signature]

Foreperson of Grand Jury
Date: February 24, 2000

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2000-GS-02 *467-496*^{wrg}

The State of South Carolina
County of Aiken

COURT OF GENERAL SESSIONS

February 28, TERM 2000

THE STATE
vs.

CEDRIC LLOYD WOODS

Court

Indictment for
BURGLARY IN THE FIRST DEGREE

SC Code: 16-11-311(A)(1)(a)
CDR Code: 079
Class FEL-EXM(V)

1 of 2 Exhibit

Copy

ROA 24

ROA 25

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

INDICTMENT

At a Court of General Sessions, convened on February 28, 2000, the Grand Jurors of Aiken County present upon their oath:

BURGLARY IN THE FIRST DEGREE

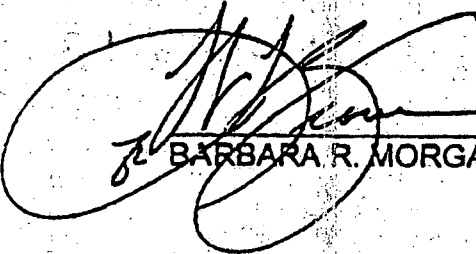
That CEDRIC LLOYD WOODS did in Aiken County on or about June 12, 1999, willfully and unlawfully enter the dwelling of ~~Angela M. E.~~ located at 785 University Parkway, Apartment G-1, Aiken, South Carolina, without consent and with the intent to commit a crime therein and the defendant was armed with a deadly weapon or explosive, all in violation of §16-11-311, Code of Laws of South Carolina (1976), as amended.

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AUG 21 2018

SC Court of Appeals

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


BARBARA R. MORGAN, SOLICITOR

WITNESSES

H. Nimau, A.C.S.O.

DOCKET NO. 2000-GS-02- 533

2

The State of South Carolina

County of Alken

COURT OF GENERAL SESSIONS

APRIL 10, TERM 2000

FILED

April 19 2000
David H. Hodges
Robert B. [unclear]
D. H. [unclear]

ARREST WARRANT NUMBER

ct Indictment

THE STATE

vs.

CEDRIC LLOYD WOODS

ACTION OF GRAND JURY

True Bill

Edward J. Wells

person of Grand Jury

March 30, 2000

VERDICT

person of Petit Jury

e:

Indictment for
POSSESSION OF FIREARM OR KNIFE
DURING COMMISSION OF OR
ATTEMPT TO COMMIT A VIOLENT
CRIME

SC Code: 16-23-490

CDR Code: 549

Class FEL-F

ROA 26

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

INDICTMENT

ROA 27

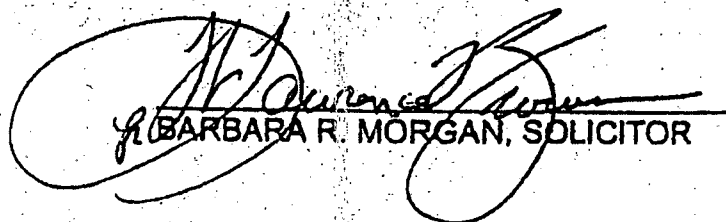
At a Court of General Sessions, convened on April 10, 2000, the Grand Jurors of Aiken County present upon their oath:

POSSESSION OF FIREARM OR KNIFE DURING COMMISSION OF OR
ATTEMPT TO COMMIT A VIOLENT CRIME

That CEDRIC LLOYD WOODS did in Aiken County on or about June 12, 1999, possess or visibly display a firearm or visibly display a knife during the commission or attempted commission of a violent crime, to wit: Burglary In The First Degree, all in violation of Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

RECEIVED
AUG 21 2018
SC Court of Appeals

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


BARBARA R. MORGAN, SOLICITOR

WITNESSES

H. Nimau, A.C.S.O.

FILED

[Signature]
H. Nimau
A.C.S.O.
[Signature]
Deputy Clerk

ARREST WARRANT NUMBER

41947

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury
date: February 24, 2000

VERDICT

Foreperson of Petit Jury
date:

DOCKET NO. 2000-GS-02-

464-493

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

February 28, TERM 2000

THE STATE
vs.

CEDRIC LLOYD WOODS

Indictment for
ATTEMPTED ARMED
ROBBERY

SC Code: 16-11-330
CDR Code: 0026
Class FEL-C (V)

1 of 2 Exhibits

ROA 28

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

INDICTMENT ROA 29

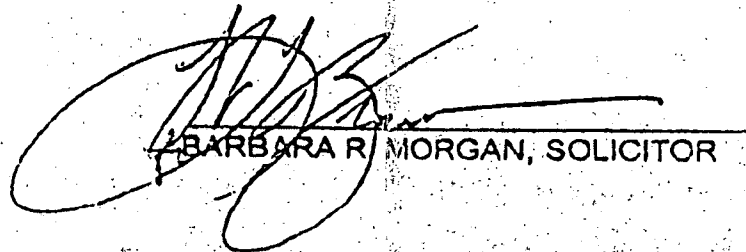
At a Court of General Sessions, convened on February 28, 2000, the Grand Jurors of Aiken County present upon their oath:

ATTEMPTED ARMED ROBBERY

That CEDRIC LLOYD WOODS did in Aiken County on or about June 12, 1999, while armed with a deadly weapon or while alleging either by action or words that he was armed with a knife, attempt to feloniously take from the person or presence of Angela M. Ealy, by means of force or intimidation goods or monies of Angela M. Ealy, all in violation of §16-11-330 of the Code of Laws of South Carolina (1976), as amended.

RECEIVED
AUG 21 2018
SC Court of Appeals

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


BARBARA R. MORGAN, SOLICITOR

WITNESSES

H. Nimau, A.C.S.O.

FILED

April 19, 2000
[Signature]
Deputy Clerk

ARREST WARRANT NUMBER

at Indictment

ACTION OF GRAND JURY

True Bill

[Signature]
person of Grand Jury
s: March 30, 2000

VERDICT

person of Petit Jury
'e:

DOCKET NO. 2000-GS-02- 534

2

The State of South Carolina

County of Alken

COURT OF GENERAL SESSIONS

APRIL 10, TERM 2000

**THE STATE
vs.**

CEDRIC LLOYD WOODS

**Indictment for
POSSESSION OF FIREARM OR KNIFE
DURING COMMISSION OF OR
ATTEMPT TO COMMIT A VIOLENT
CRIME**

SC Code: 16-23-490

CDR Code: 549

Class FEL-F

ROA 30

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

INDICTMENT

ROA 31

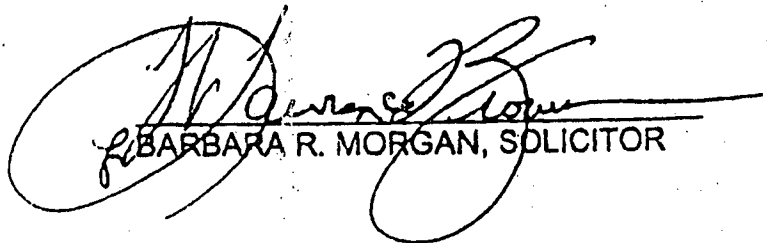
At a Court of General Sessions, convened on April 10, 2000, the Grand Jurors of Aiken County present upon their oath:

**POSSESSION OF FIREARM OR KNIFE DURING COMMISSION OF OR
ATTEMPT TO COMMIT A VIOLENT CRIME**

That CEDRIC LLOYD WOODS did in Aiken County on or about June 12, 1999, possess or visibly display a firearm or visibly display a knife during the commission or attempted commission of a violent crime, to wit: Attempted Armed Robbery, all in violation of Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

RECEIVED
AUG 21 2018
SC Court of Appeals

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


BARBARA R. MORGAN, SOLICITOR

WITNESSES

H. Nimau, A.C.S.O.

FILED

April 19, 2000

[Signature]

CCCP & QS

[Signature]

Deputy Clerk

ARREST WARRANT NUMBER

644948

ACTION OF GRAND JURY

True Bill

Eleanor J. Wells

oreperson of Grand Jury
late: February 24, 2000

VERDICT

oreperson of Petit Jury
late:

DOCKET NO. 2000-GS-02-

405494

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

FEBRUARY 28, TERM 2000

**THE STATE
vs.**

CEDRIC LLOYD WOODS

**Indictment for
KIDNAPPING**

SC Code: 16-3-910
CDR Code: 0095
Class FEL-A

ROA 32

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

INDICTMENT

ROA 33

At a Court of General Sessions, convened on February 28, 2000, the Grand Jurors of Aiken County present upon their oath:

KIDNAPPING

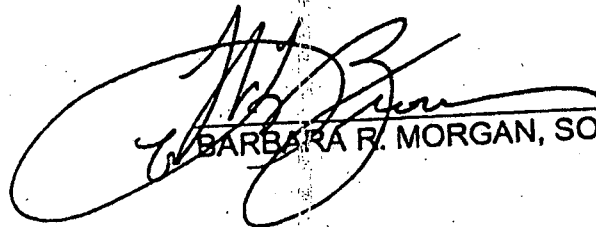
That CEDRIC LLOYD WOODS did in Aiken County on or about June 12, 1999, unlawfully seize, confine, abduct or carry away A. M. E. without authority of law, all in violation of §16-3-910 of the Code of Laws of South Carolina (1976), as amended.

RECEIVED

AUG 21 2018

SC Court of Appeals

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


BARBARA R. MORGAN, SOLICITOR

WITNESSES

H. Nima, A.C.S.O.

DOCKET NO. 2000-GS-02- 535

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

APRIL 10, TERM 2000

ARREST WARRANT NUMBER

ect Indictment

**THE STATE
vs.**

CEDRIC LLOYD WOODS

ACTION OF GRAND JURY

True Bill

Edward J. Wood

representative of Grand Jury
date: March 30, 2000

VERDICT

**Indictment for
POSSESSION OF FIREARM OR KNIFE
DURING COMMISSION OF OR
ATTEMPT TO COMMIT A VIOLENT
CRIME**

SC Code: 16-23-490

CDR Code: 549

Class FEL-F

representative of Petit Jury
date:

ROA 34

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

INDICTMENT ROA 35

At a Court of General Sessions, convened on April 10, 2000, the Grand Jurors of Aiken County present upon their oath:

POSSESSION OF FIREARM OR KNIFE DURING COMMISSION OF OR
ATTEMPT TO COMMIT A VIOLENT CRIME

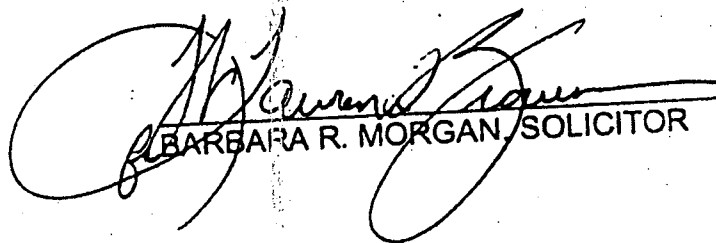
That CEDRIC LLOYD WOODS did in Aiken County on or about June 12, 1999, possess or visibly display a firearm or visibly display a knife during the commission or attempted commission of a violent crime, to wit: Kidnapping, all in violation of Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

RECEIVED

AUG 21 2018

SC Court of Appeals

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


BARBARA R. MORGAN, SOLICITOR

ROA 36

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.

DESIGNATION OF MATTER TO BE INCLUDED
IN RECORD ON APPEAL

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

- (1) The entire Trial Transcript
- (2) Indictments No.s

2000-GS-02-493.

494,

495,

496,

533,

534,

535, and

536.

ROA 36

Should the State concede that this Appellant never waived the above listed indictments, the Trial Transcript probably would not be needed. However, the Appellant may need the transcript to show that no waiver of indictment was ever knowingly, intelligently, or voluntarily made in the record.

Otherwise, this Appellant certifies that this designation contains no matter which is irrelevant to this Appeal.

The Appellant would also note that he has already sent copies of these indictments and due to the difficulties getting copies made in prison, he is not including any additional copies. Should additional copies be required, the Appellant will comply.

Additionally he is unable to provide copies of his transcript. It should be available from the Office of Indigent Defense, or from the Appendix of his PCR Appeal.

Cedric L. Woods, #265789

Cedric L. Woods, #265789

Pro se

ROA 37

STATE OF SOUTH CAROLINA
In The Court of Appeals

ROA 38

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.

FINAL BRIEF OF APPELLANT

ROA 38

ROA 39

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Citation of Authorities

Anderson v. St.,	527 SE2d 398 (ct App. 2000)
Brown v St.,	570 SE2d 559 (2002)
Dove v. Gold Kist Inc.,	442 SE2d 598 (1994)
O'Laughlin v Windham,	498 SE2d 689 (ct App 1998)
St v Beacham,	342 SE2d 597 (1986)
St v Hann,	12 SE2d 720 (1940)
St v Johnson,	489 SE2d 228 (1997)
St v Means,	626 SE2d 348 (2006)
St v McClure,	289 SE2d 158 (1982)

46 Am. Jur. 2d, Judges § 82

§ 14-5-630 (1) Terms of court for the 2nd circuit

The Appellant concedes that this appeal stems from the denial of his Motion for Declaratory Judgment case in 2014. He also concedes that the trial court was vested with jurisdiction to try his case. Also, he is not challenging the sufficiency of the indictments against him, but is challenging that the indictments were fraudulent and that the grand jury that returned them was without jurisdiction and as such, an illegal body and was void and a nullity as were the indictments* it returned, which failed to give the required notice demanded by due process of law.

Prima facie evidence right on the faces of the indictments* complained of shows that not only were they fraudulent, as the dates signed by the foreperson were four and ten days prior to the terms of court stated on the face and the terms are themselves in conflict with State law. See § 14-5-630(1)

There was no term of general sessions for Aiken County on these dates, however, as mandated by the Legislature, there were terms of court for the Aiken County Court of Common Pleas on each of those dates. Since both general sessions and common pleas courts cannot convene at the same time in the same county, this is evidence of fraud and a lack of jurisdiction of the grand juries.

The court of common pleas is vested with no authority to take any actions on matters pertaining to return of true bill indictments. Thus there is no grant of concurrent jurisdiction and therefore no true bill criminal indictments can be lawfully issued through grand jury proceedings held before a court of common pleas. See *Dove v. Gold Kist Inc.*, 442 SE2d 598, @600, (1994).

St. v. McClure, 289 SE2d 158, (1998). "No indictment may be true billed when the circuit court lacks jurisdiction since the grand

* See pg 5

jury is co-extensive with the criminal jurisdiction of the court it is impaneled and for which it is to make inquiry "

"The law requires presentment of a grand jury as a condition precedent to the trial of a crime..., St. v. Beauchem, 342 SE2d 597, (1986) - A conviction obtained without presentment of a grand jury will be voided on appeal." St. v. Hann, 12 SE2d 720 (1940) See also S.C. Const. art I, § 11.

Hann, went on to say, "[t]he same principle... applies to an attempted conviction without the verdict of a petit jury. As we apprehend, it is the application of this principle that the courts hold... that those who acted as either grand jurors or petit jurors, are so contrary to the law that either jury cannot be said to have any legal existence, the conviction is a nullity."

Post-Gentry, indictments are viewed as "notice documents," and while they do not confer jurisdiction upon the trial court, they have not been dispensed with. In St. v. Means 626 SE2d 348, (2006) the Court held that post-Gentry "analysis remains largely the same as it did under pre-Gentry law, although it is now driven by concepts of notice and due process. A defendant has a constitutional and statutory right to demand a properly constituted grand jury consider his case...."

This Appellant asserts that the two grand juries were impaneled during a court of common pleas, not a court of general sessions, therefore they had no legal jurisdiction as pointed out in Dove, supra, and as the Appellant comprehends Hann, supra, legally, these grand juries did not exist and thereby he was tried for crimes without presentment of grand juries and his sentences and convictions should be voided.

This Appellant has a very limited amount of time to do research in a very inadequate law library at Allendale Correctional, but has found a legal term that might apply to this case. The term "excess of jurisdiction" might well apply here.

"Excess of jurisdiction, as distinguished from the entire absence of jurisdiction, means that the act, although 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." - O'Laughlin v Windham, 498 SE2d 689 (Ct.App. 1998) citing 46 Am. Jur. 2d, Judges § 82 and Str Johnson, 489 SE2d 228, (Ct.App. 1997).

Even though the trial court had jurisdiction in general, the fact that no legal presentment to a legal grand jury existed as a condition precedent to trial, therefore the trial and verdict, as well as the sentence and conviction are voidable.

The State has argued that the Appellant's issue is not preserved for appeal or appellate review. Because jurisdictional claims may be raised at anytime, even for the first time on appeal, or "can be raised sua sponte by [this Court]," the Appellant asserts that this Court is allowed by precedent to hear and decide his claim. See Brown v. St. 570 SE2d 559 (2002) and Anderson v. St. 527 SE2d 398 (Ct. App. 2000)

Similarly to this case, Anderson was appealing the denial of a writ of mandamus asking to compel the clerk of court to provide him "copies of grand jury transcripts, list of jurors who considered his indictment, and documentary proof that the grand jury was qualified by a circuit court judge in open court...." This Court

denied the mandamus, but Anderson had also raised the issue of jurisdiction by requesting a hearing to determine if the trial court that tried him for murder was vested with jurisdiction.

Anderson cited the absence of the term "true bill" on the face of the indictment against him as grounds for the hearing. Like Anderson, this Appellant has had no success in obtaining access to his grand jury documents. This Court remanded Anderson's case for a hearing to determine if his trial court was vested with jurisdiction, and held that "the State shall bear the burden of proving subject matter jurisdiction."

While as stated above, this Appellant concedes that while his trial court had jurisdiction, the grand jury that issued his indictments did not have jurisdiction and were a nullity as were the indictments and as such he was denied his constitutional and his statutory right to demand a properly constituted grand jury and presentment as a condition precedent to trial and the State should as in Anderson, bear the burden of proving otherwise.

Conclusion

For the foregoing reasons, this Appellant respectfully asks that this Court remand his case for an "Anderson hearing" and that he be appointed counsel for the hearing and that the State be required to prove the legality of his grand jury with sufficient evidence and should it be unable to do so, or if it concedes, that this Court vacate his sentences and convictions and any other such relief as this Court should deem just and fair.

References to the Record on Appeal

Any reference to indictments in this brief are to those already submitted to this Court and listed in the Record on Appeal; see item number (2).

Also they are noted by * on page one of this brief.

Respectfully submitted
Cedric L. Woods

Cedric L. Woods
Pro se

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.

Cedric L. Woods, # 265789,

Appellant,

v.

State of South Carolina,

Respondent.

MOTION FOR SUMMARY JUDGMENT

ROA 46

This Petitioner, Cadric L. Woods, seeks a Rule 56 Motion for Summary Judgment due to the State's failure to respond as required by Rule 12(b). The State has even granted numerous expansions of time in which to respond and is now in default of the March 30, 2018 Order issued by this Court, Rule 55(a) and (e)(2) should be applicable, and this Petitioner therefore respectfully asks this Court to grant him relief by means of Summary Judgment and vacate his sentences and convictions.

This Petitioner asserts that the State cannot set forth any conceivable argument based in either law or fact, as required by Rule 12(b), to counter why he should not be granted relief. As such, this Court has the authority to grant it its agreement with this Petitioner.

As to preservation of these issues, there is no statute of limitations on fraud upon the Court, Rule 60(b)(2) and *Chewing v. Ford*, 579 SE2d 605, (2003), and matters of jurisdiction may be raised at any time, *St. v. McCallie*, 289 SE2d 158, (1982).

In 6-14-51 to 6-30, the Legislature set forth the dates when each court would be held, and the Courts of General Session and Criminal Court. These two courts do not convene at the same time in the same court. The statute also states that the Court of Commissions for Juvenile Court is held on the

fourth Monday in February for a term of two weeks, and on the second Monday in April for a term of one week. In the year 2000, the February term for the Aiken County Court of Common Pleas started on Monday, February 28th, and the April term started on Monday, April 10th.

Coincidentally, the indictments complained of, and copies of which have already been submitted to this Court, show the grand jury's term as dated February 28, 2000, and April 10, 2000, which as stated above are dates designated by the State Legislature for the Aiken County Court of Common Pleas and not the Court of General Sessions which holds the jurisdiction of Aiken County grand juries.

Since grand juries are co-extensive with the Courts of General Sessions and not with the Court of Common Pleas which were to be convened at the dates printed on the challenged indictments, these grand juries were an illegal body and a nullity and void, as are any indictments they returned, and as such, failed to give the proper notice required by the process of law, Article I, § 3 and § 11.

This all elaborated in *Evans v. St.*, 611 SE2d 510 (2005). Citing *St. v. Edwards*, 47 SE 395, (1904) "[G]rand jury was an illegal body and thus murder indictment was a nullity and incurable."

Also cited, *St. v. Pector*, 55 SE 387, (1937), "[D]efendant's demand and refusal to be tried by a grand jury were not prejudicial."

him only upon an indictment presented by a legal grand jury, ... May therefore 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."

St. v. Means, 626 SE 2d 348, (2006), further strengthens the Petitioner's assertions. It held, "A defendant has a constitutional and statutory right to demand that a properly constituted grand jury consider his case and decide whether to issue a sufficient indictment. - In other words it is to prevent the abuse of government power."

McClure, *supra*, states, "No indictment may be true or valid when the circuit court loses jurisdiction since the grand jury is co-extensive with criminal jurisdiction of the court it is impeached and for which it is to make inquiry."

It would seem well accepted that the Courts of Common Pleas have no jurisdiction over criminal cases and since a grand jury is co-extensive only with a court with criminal jurisdiction or in other words, it is co-extensive only with the Courts of General Sessions and it could not have convened during the dates indicated on these indictments. Ergo, the grand jury that issued these challenged indictments was an illegal body without jurisdiction, and as such both the grand juries and these indictments were a nullity and void and jurisdictional claims may be raised at any time.

In addition to the above jurisdictional defects is the obvious fact that the dates of issue are four to ten days

prior to the dates of the supposed terms of court shown on the faces of the indictments. The indictments for the February 28th term of court are true billed on February 24, 2000, four days too early and the indictments for the April 10th term are dated as true billed on March 30, 2000, ten days too early. These fatal flaws raise a serious issue of fraud upon the court, a violation of Rule 60(b)(3) of which there is no statute of limitations. See *Chewning, Supra*.

These flaws also make the indictments nullities, void and incurable. Indictments cannot legally be true billed four to ten days before the date the grand jury session. The State cannot provide any possible, rational, or credible explanation for the discrepancies in dates. Were it only one or even two days it might be explainable as a scrivener error, but four and ten days points toward fraud and that is something no court should take lightly. These indictments cannot hold up to scrutiny.

As to fault for these errors, this fact alone asserts that not only was his trial counsel negligent for failing to challenge these incurable flaws, but the prosecutor and the trial court also bear the responsibility for the violation of his constitutional due process rights. They are all officers of the court and are equally bound by ethics and canons of law to protect his rights. It is the trial judge's responsibility to oversee and insure a fair trial process. The Solicitor is in fact a "quasi-judicial official" and it is their job to see that the indictments are handed down by a legal grand jury.

body, to see that justice is done, Not a conviction at any cost, and it is his trial counsel's duty to protect his client's rights. Scrutinizing all of the documents pertaining to the trial is the responsibility of all three of them and the indictments should be at the top of the list in importance and priority.

How could all three of them fail to take notice of the discrepancies of these dates on the faces of the indictments without suspicion? All of them are charged to protect his right to a fair trial and to protect the integrity of the trial process and our system of jurisprudence.

Since all three, the prosecutor, the trial judge and his trial counsel bear responsibility for these errors, the Petitioner further asserts that his complaint meets all four prongs of the Olano test. See *U.S. v. Olano*, 113 S.Ct. 1770 (1993), and Rule 52(f) - plain error.

First, there is "error;" second, it is "plain error;" third, it "affects substantial rights;" and fourth, the error[s] "affect the fairness, integrity, [and] public reputation of the judicial process."

In *U.S. v. Hicks*, 137 S.Ct. 2000, (2017), Justice Gorsuch, in delivering one of his first U.S. Supreme Court opinions paraphrased a remark from *U.S. v. Sabillon-Almanza*, 772 F.3d 1328, (CA10 2014), stating, "[W]hat reasonable citizen would bear a rightly diminished view of the judicial process and its integrity if its courts refused to correct obvious errors of their own device...?"

With all four prongs of the Olano test for plain error met, this is an additional reason for this Court to grant relief. This whole case reeks of fraud and abuse of government power. These fatal flaws are quite obvious.

Since all of these convictions were intertwined, the Petitioner asserts that they all should be vacated. The "cumulative error" doctrine, as recently mentioned in *St. v. Thompson*, 803 SE2d 44, (2017), as well as the *Winship* doctrine should apply here as well. See *Winship*, 90 S Ct 1068, (1970).

The *Winship* doctrine requires that all elements of a criminal charge, Not just some of them, be proven beyond a reasonable doubt. The four weapons charges of which the Petitioner was acquitted were inextricably linked to both charges of "ARMED" robbery and burglary 1st. These convictions should not stand since the jury found him Not guilty of any of the four weapons charges which were essential elements of these two convictions. This offends the *Winship* doctrine.

According to *Winship* and its progeny, if a defendant is able to demonstrate that he was convicted without any one of the required elements essential to the crime charged being proven beyond a reasonable doubt, his conviction must be reversed. Here, the jury has demonstrated that by acquitting him of Not one or two of the weapons charges, but all four. Clearly the required and essential elements of a weapon were not proven by the *Winship* standard in either the armed robbery or burglary 1st convictions as both require a weapon. Neither conviction should stand. Neither are constitutionally sound.

Sullivan v LA, 113 S Ct 2078, (1993), held; "The prosecution bears the burden of proving all elements of the offense charged and must persuade the fact-finder 'beyond a reasonable doubt' of the facts necessary to establish each of those elements. -- It is self-evident, we think, that the Fifth Amendment requirement of proof beyond a reasonable doubt and the Sixth Amendment requirement of a jury verdict are interrelated. It would not satisfy the Sixth Amendment to have a jury determine that the defendant is 'PROBABLY' [italics] guilty, and leave it up to a judge to determine (as Winship requires) whether he is guilty beyond a reasonable doubt. In other words, the jury verdict required by the Sixth Amendment is a verdict of guilty beyond a reasonable doubt."

This quote seems rather apropos here. More or less, the jury left it up to the judge as to guilt beyond a reasonable doubt here. It is overtly obvious that the element of a weapon that is required to convict on these two charges was Not proven, and our system of justice demands proof of facts necessary to prove each and every element of the crime charged beyond a reasonable doubt. This did Not happen here and since the weapons elements were Not proven, this issue can be addressed as a claim of actual innocence and a claim of miscarriage of justice when such a conviction is and is as decided by the U.S. Supreme Court or cannot be guilty of armed robbery or burglary if sans a conviction or guilty verdict on at least one of the weapons charges connected to these two convictions.

In fact, because he was acquitted of all four weapons charges, if he is now granted a new trial, double jeopardy would preclude his being indicted for either armed robbery or burglary 1st.

Also implicated by the fact he was convicted of these two charges without a conviction of the weapons charges inextricably intertwined, is that either the jury instructions were inadequate, the verdict form was defective, or that the jury failed to understand the instructions or the elements of the crimes charged and required to return a constitutionally adequate verdict of guilty on these two charges.

There is plenty of case law to support what a reasonable jury likely understood in relationship to jury instruction. The fact that the trial judge allowed these unconstitutional verdicts to stand as well as trial counsel's failure to challenge them by a post-trial motion to set them aside also bears scrutiny. Leaving this issue to be appealed without any post-trial motion to correct is clearly ineffective assistance of counsel.

Conclusions

1. These indictments complained of, by clear and convincing evidence right on their face, show that they were issued without jurisdiction due to the fact that the Courts of General Sessions and Common Pleas do not meet during the same terms in the same counties and because the term of court that was published on all of the indictments' faces was for a term only for the Aiken County Court of Common Pleas as set forth by statute §14-5-630, and since grand juries are co-extensive only with the criminal jurisdiction of the court in which it is impaneled and to which it is to make inquiry, these indictments are therefore nullities, void, and failed to give the required notice demanded by due process and jurisdictional claims may be raised at any time.

2. These indictments were fraudulent as indicated on their faces by clear and convincing evidence, because the dates of "true bill" are four to ten days prior to the supposed terms of court published therein and are outside the jurisdiction of any court and again were nullities and could not have given the required notice and jurisdictional claims may be raised at any time and there is no statute of limitation on fraud upon the court.

3. The above errors complained of meet all four prongs of the Olano test for "plain error" and therefore are consistent with this Court's authority to grant the petitioner relief.

4. The doctrines of Winship and cumulative error also apply here due to the fact conviction of a weapons charge was inextricably linked to both the robbery and burglary charges and the Petitioner was acquitted on all four of the weapons charges which implicates either defect in the jury instructions, the verdict form or that there was a "reasonably likelihood" that the jurors misunderstood the elements required to convict on these two charges and/or applied the instructions unconstitutionally as indicated by a finding beyond a reasonable doubt that there were no weapons involved in

any of the charged offenses as would be required by Winship.

For the foregoing reasons and conclusions this Petitioner respectfully asks this Court to grant him relief by Summary Judgment and vacate all of his sentences and convictions and any other relief it should see appropriate.

Respectfully submitted

Cedric L. Woods

Cedric L. Woods

pro se

Citings

S.C. Cases

Chewning v. Ford, 579 SE2d 605, (2003)

Evans v St, 611 SE2d 510, (2005)

St v Edwards, 47 SE 395, (1904)

St v McClure 289 SE 2d 158, (1982)

St v Means 626 SE2d 348, (2006)

St v Rector 155 SE 389, (1937)

Federal Cases

In re Winship 90 S.Ct 1068, (1970)

Sullivan v. LA 113 S.Ct 2078, (1993)

U. S. v Hicks 137 S.Ct 2000, (2017)

U. S. v O'Lano 113 S.Ct 1770, (1993)

U. S. v Sabillon-Umana, 772 F3d 1328, (CA10 2014)

Court Rules

Rule 12 (b)

Rule 52 (b)

Rule 55 (a) and (b) (2)

Rule 56

Rule 60 (b) (3)

S.C. Statute

§ 14-5-630

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.

PROOF OF SERVICE

I certify that I have served a copy of my Motion for Summary Judgment on the State by delivering said copy to the mail room at Allendale Correctional Institute to sent to the Office of the Attorney General at PO Box 11549, Columbia, SC 29211-1549, on this the 23rd day of May, 2018.

May 23, 2018
Cedric L. Woods, #265789
ACI F3B-03
POBox 1151
Fairfax, SC 29827

V. Claire Allen, Deputy Clerk
S.C. Court of Appeals
POBox 11629
Columbia, SC 29211

Re: Cedric L. Woods v. State
Appellate Case No. 2016-002367

I am in receipt of your letter of May 18, and have on this day, sent a copy of my motion for summary judgment and a proof of service to the A.G.'s office, as instructed. Your letter stated that a copy of my motion was attached with your letter, but it did not arrive with it.

We were on State-wide lock-down due to the situation at Lee at the time I sent the motion and I was unable to have copies made. I am sending a copy of the proof of service that I am sending to the State for your records along with the caption page.

Sincerely,

Cedric L. Woods

Cedric L. Woods
pro se

ROA 59

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.

MOTION FOR SUMMARY JUDGMENT

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Broome v Douglas, 175 Ala. 268, 57 So. 860 (1912 Alabama S.Ct.)
St v Gentry, 510 SE2d
St v Pringle, 339 SE2d 127, (1986)

S.C. Constitution

Article I, §11

Rules of Court (S.C.R.P.)

Rule 55 (a) and (b) (2)

Rule 56

S.C. Statutes

§ 14-5-630 (1)

§ 14-17-540

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 facie 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(i). 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.

ROA 63

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 ^{it} 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 impaneled 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 ^{trial}, and if a criminal court convicts a defendant without presentment by a legal grand jury it is in excess of jurisdiction.

ROA 64

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

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,

Respondant.

PROOF OF SERVICE

I certify that I, Cedric L. Woods, #265789, have on this the 24th 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

Cedric L. Woods, #265789

Pro se

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.

APPELLANT'S REPLY TO RESPONDANT'S
MOTION TO DISMISS

ROA 68

Herein, this Appellant replies to the Respondant's Motion to Dismiss this Appeal.

The State, in its motion has stated that the Appellant is challenging his underlying conviction. This is misstated and is misunderstood. While he is challenging his conviction, more than that he is challenging the process of his conviction and that it is void and a nullity, that the trial court was in excess of its jurisdiction because the indictments were fraudulent. These indictments were true billed four and ten days prior to the supposed terms of court, that were themselves in conflict with the legislated terms of court for Aiken County.

As such, the grand jury proceedings were not co-extensive with a court of criminal jurisdiction for which it is to make inquiry and to report, making the grand jury not legal as a body and any indictments it returned were therefore a nullity, void, and could not give the notice required by due process of law, a condition required by S.C. Const. art. I, § 3, § 11, art. V, § 22, and § 17-19-10.

The Respondant has previously cited *St. v Pringle* 339 SE2d 127, (1986), "In the absence of evidence to the contrary, the regularity of proceedings... will be assumed." Pringle's assumption cannot stand with *prima facie* evidence of fraud right on the face of the indictments.

In addition to this, the Appellant was never served with any of these Indictments and the only copies he has ever seen are the ones he has submitted to this Court that were in his trial counsel's case file that he used to file his PCR Application and they do not have a clock stamp from the Aiken County Clerk of Court's Office. This too, is an irregularity.

Failure to properly serve this Appellant was a violation of both of the Constitutional and statutory laws cited above. And as was stated in *Faretta v CA*, 95 S.Ct. 2525, (1975), "It is the accused, not counsel, who must be informed of the nature and cause of the accusation...."

Even had the grand jury been legally established and constituted and returned lawfully valid indictments, but the Solicitor failed to serve them to this Appellant, the notice requirements and conditions precedent and necessary to a criminal trial would be wanting and thus the judge's / court's authority would be lacking. This is precisely what happened and the trial verdicts should be void and the conviction a nullity.

See *St v Beachum* 342 SE2d 587, (1986) citing S.C. Const. art I, §11, "The law requires presentment of a grand jury as a **condition** precedent to the trial of a crime..." and "presentment during trial did not remedy lack of [notice] which existed at the commencement of trial." (Per Gentry, subject matter jurisdiction was replaced with "notice." While Gentry may have overruled this case, it cannot overrule the Constitution.)

As this Appellant understands, the due process requirement of notice has two distinct conditions that are mandatory before a criminal trial can commence: (1) a lawfully valid indictment must be returned by a legally established and constituted grand jury that is impaneled with a court of concurrent criminal jurisdiction, and (2) the indictment must be properly served to the accused, not his counsel. These conditions must be met before commencement of a criminal trial, or both the judge and the court are in excess of their jurisdiction.

A court derives its jurisdiction of the subject matter to hear and determine cases of the general class to which the proceedings in question belong. I.e. civil, criminal, probate, equity, etc. However, the judge derives his jurisdiction, authority, and power to act in a particular case by law and if any of the conditions authorizing the exercise of his general power to act in a particular case are absent or wanting, he is in excess of his jurisdiction and his

Judicial power is not lawfully invoked.

See *Broome v Douglas*, 175 Ala. 268, 57 So. 860 @5, Alabama S.Ct. (1912), "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.

As was noted in *St v Gentry*, 610 SE2d 494, citing *U.S. v Cotton*, 122 S.Ct. 1781, @ 1785, "This latter concept of subject matter jurisdiction, because it involves a court's power to hear a case, can never be forfeited or waived. Consequently, defects in subject matter jurisdiction require correction regardless of whether the error was raised [below]."

Excess of jurisdiction, like subject matter jurisdiction, also involves the judge's or court's power to hear and determine a particular case, and therefore, like subject matter jurisdiction, it too should not be subject to forfeiture or waiver either.

Additionally, as Justice Pleicones pointed out in his dissent in *Gentry*, there are at least three functions an indictment serves, two of which benefit the accused, but "the third requirement is for the benefit of the circuit court, and not subject to waiver by the defendant."

While *Cotton* and *Gentry* were focused on defects or the sufficiency, neither addressed the process of the indictment's return, a fraudulent indictment, or failure to serve an indictment to an accused. Again, this Appellant is not challenging the sufficiency or wording of his indictments, but their legality and validity as well as the failure to even serve him copies prior to the commencement of his trial.

An accused who did not fully understand his rights to notice that an indictment secures and whom had never even seen his indictments

would have had no way to intelligently, knowingly, and voluntarily waive these rights. Especially when the trial court made no colloquy or inquiry as to waiver on the record to establish the relinquishment or abandonment of his fundamental right to notice. *Johnson v Zerbst*, 58 S.Ct 1019, @ 1023, (1938) held that "courts indulge every reasonable presumption against waiver of fundamental constitutional rights and... do not presume acquiescence in the loss of fundamental rights."

The Court in *Johnson* went on to say that the "guaranty" of constitutional rights "would be nullified [if] an accused's ignorant failure to claim his rights remove[d] the protection of the Constitution."

Evans v St, 611 SE2d 510, backs all of this Appellant's claims on the illegal establishment and constitution of a grand jury and that if it is an illegal body any indictment it returns is a nullity and would fail to give the required notice. However, *Evans* cites § 14-7-1140 with the caveat that an objection to an illegal indictment must be made before the jury renders its verdict. This Appellant challenges the constitutionality of this aspect of *Evans*.

"Constitutional construction of statutes are not only judicially preferred, they are mandated. A possible constitutional construction must prevail over an unconstitutional interpretation." *St v McGrier*, 663 SE2d 15, (2008)

Wood v Milyard, 132 S.Ct 1826, (2012), held that "waiver is the intentional relinquishment or abandonment of a known right." By not having even seen his indictments, there is no way this Appellant could have known of the prima facie evidence of fraud on the faces of these indictments, but his trial counsel, the prosecutor, and the trial court should have noticed at least the discrepancies of four and ten days between the dates of their return and the supposed terms of court. This also imputes the error to the court under Rule 52(b) - plain error. See *U.S. v Olano*, 113 S.Ct 1770, (1993).

Additionally §14-7-1140 also states the exception, "unless the party was injured by the irregularity...." Loss of a fundamental right should be injury enough. As stated in Cotton, "such error affects the fairness, integrity, [and] public reputation of judicial proceedings."

Since these errors involve an excess of jurisdiction, "[f]ailure to comply with a jurisdictional time prescription is a jurisdictional defect that is not subject to waiver or forfeiture and may be raised at any time..., and courts are obliged to take notice of jurisdictional issues and raise them on their own initiative." *Hamer v Neighborhood Housing*, 138 S.Ct. 13, (2018).

As cited by the Appellant in his previous brief, *U.S. v Gale*, 109 U.S. 65 (1883) stated, "There are cases, undoubtedly, which admit a different consideration, and in which the objection to the grand jury may be taken at any time. These are where the whole proceeding of forming the panel is void, as where the jury is not a jury of the court or term in which the indictment is found, or some other fundamental requisite has not been complied with."

This fits with this Appellant's case. The Appellant's indictments were all returned during a term of court mandated by law to be a court of common pleas and not a court of general sessions as was printed on the face, and the dates of true bill are also in conflict with the supposed term of court by four and ten days. As such, *Gale*, "clearly established federal law as decided by the U. S. Supreme Court," supports the Appellants assertions as does *Johnson*, *Wood*, and *Hamer* cited above.

As to the failure of the Appellant to submit a Record on Appeal, this has since been rectified. The Appellant apologizes and respectfully asks for the indulgence of both this Court and the Respondant for this delay. With only the few hours a week that he is permitted to

spend in a pitifully inadequate law library, it is difficult for him to comply with procedures of which he is unaware and unaccustomed.

In conclusion, this Appellant respectfully asks that the Respondant's Motion to Dismiss be denied and that this Reply Brief be added to the Record on Appeal.

Respectfully submitted

Cedric L. Woods, 265789

Cedric L. Woods, # 265789

Pro se

TABLE OF AUTHORITIES

S.C. CASES

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OTHER CASES

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--	---

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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.

PROOF OF SERVICE

I Cedric L. Woods, hereby certify that I have served the Respondant and the S.C. Court of Appeals with my Reply to the Respondant's Motion to Dismiss and that I have on this the 30th day of October, places copies to each in the U.S.P.S. mail.

Cedric L. Woods, #265789

Cedric L. Woods, #265789

ACI-F3B-03

PO Box 1151

Fairfax, SC 29827

Pro se

ROA 76

EXHIBITS

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Indictments alleged fraudulent:

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pg 92-101

ROA77

WITNESSES

H. Nimau, A.C.S.O.

FILED

Spencer
Robert B. Smith
Deputy Clerk

ARREST WARRANT NUMBER

44547

ACTION OF GRAND JURY

True Bill

Edward J. Wilkins

Foreperson of Grand Jury
Date: February 24, 2000

VERDICT

Foreperson of Petit Jury

DOCKET NO. 2000-GS-02-

464-493

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

February 28, TERM 2000

THE STATE

vs.

CEDRIC LLOYD WOODS

Indictment for
ATTEMPTED ARMED
ROBBERY

SC Code: 16-11-330
CDR Code: 0026
Class FEL-C (V)

1 of 2 Exhibits

ROA 78

STATE OF SOUTH CAROLINA)

INDICTMENT

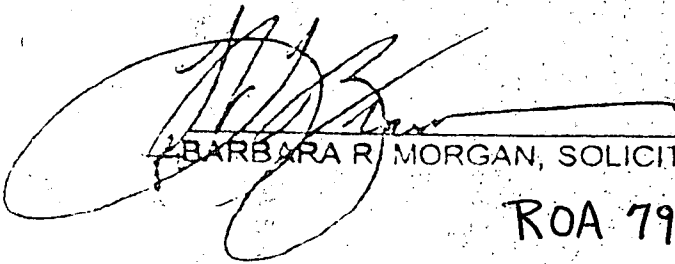
COUNTY OF AIKEN)

At a Court of General Sessions, convened on February 28, 2000, the Grand Jurors of Aiken County present upon their oath:

ATTEMPTED ARMED ROBBERY

That CEDRIC LLOYD WOODS did in Aiken County on or about June 12, 1999, while armed with a deadly weapon or while alleging either by action or words that he was armed with a knife, attempt to feloniously take from the person or presence of Angela M. Ealy, by means of force or intimidation goods or monies of A. M. E., all in violation of §16-11-330 of the Code of Laws of South Carolina (1976), as amended.

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


BARBARA R. MORGAN, SOLICITOR

ROA 79

WITNESSES

H. Nimau, A.C.S.O.

FILED

CCCP & G.S.

Deputy Clerk

ARREST WARRANT NUMBER

14948

ACTION OF GRAND JURY

Person of Grand Jury
e: February 24, 2000

VERDICT

Person of Petit Jury
e:

DOCKET NO. 2000-GS-02-

465494^{w3}

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

FEBRUARY 28, TERM 2000

THE STATE

vs.

CEDRIC LLOYD WOODS

Indictment for

KIDNAPPING

SC Code: 16-3-910

CDR Code: 0095

Class FEL-A

1 of 2 Exhibits

ROAD 80

STATE OF SOUTH CAROLINA)

INDICTMENT

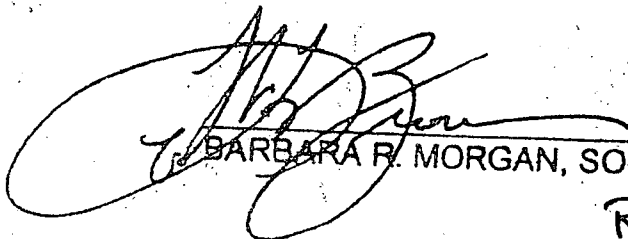
COUNTY OF AIKEN)

At a Court of General Sessions, convened on February 28, 2000, the Grand Jurors of Aiken County present upon their oath:

KIDNAPPING

That CEDRIC LLOYD WOODS did in Aiken County on or about June 12, 1999, unlawfully seize, confine, abduct or carry away A. M. E. without authority of law, all in violation of §16-3-910 of the Code of Laws of South Carolina (1976), as amended.

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


BARBARA R. MORGAN, SOLICITOR

RoA 81

DOCKET NO. 2000-GS-02- 406-495 *ms*

WITNESSES

H. Nimau, A.C.S.O.

FILED

April 19, 2000
[Signature]
[Signature]
Deputy Clerk

ARREST WARRANT NUMBER

G031703

ACTION OF GRAND JURY

True Bill

Eleanor J. Woods
Foreperson of Grand Jury
Date: February 24, 2000

VERDICT

Foreperson of Petit Jury
Date:

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

FEBRUARY 28, TERM 2000

THE STATE

vs.

CEDRIC LLOYD WOODS

Indictment for

**CRIMINAL SEXUAL CONDUCT
FIRST DEGREE**

SC Code: 16-3-652
CDR Code: 160
Class: FEL-A (V)

ROA 82

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

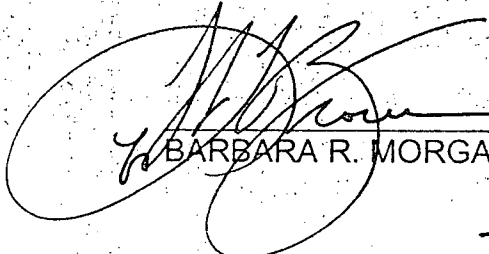
INDICTMENT

At a Court of General Sessions, convened on February 28, 2000, the Grand Jurors of Aiken County present upon their oath:

CRIMINAL SEXUAL CONDUCT- FIRST DEGREE

That CEDRIC LLOYD WOODS did in Aiken County on or about June 12, 1999, commit the crime of Criminal Sexual Conduct In The First Degree, in that the Defendant did commit a sexual battery, to wit: Cedric Lloyd Woods had the victim perform fellatio upon him and he had sexual intercourse with the victim, Angela M. Ealy. Such sexual battery was accomplished by the use of force of a high and aggravated nature and/or the victim submitted to the sexual battery under circumstances where she was also the victim of forcible confinement, robbery and/or burglary. All in violation of §16-3-652 Code of Laws of South Carolina (1976), as amended.

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


BARBARA R. MORGAN, SOLICITOR

ROA 83

WITNESSES

H. Nimau, A.C.S.O.

FILED

Deputy Clerk

ARREST WARRANT NUMBER

031704

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: February 24, 2000

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2000-GS-02

467-496^{way}

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

February 28, TERM 2000

THE STATE

vs.

CEDRIC LLOYD WOODS

Court

Indictment for

BURGLARY IN THE FIRST DEGREE

SC Code: 16-11-311(A)(1)(a)

CDR Code: 079

Class FEL-EXM(V)

1 of 2 Exhibit

ROA 84

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

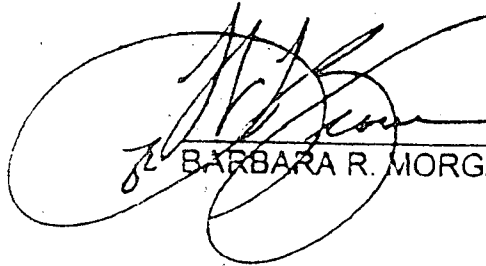
INDICTMENT

At a Court of General Sessions, convened on February 28, 2000, the Grand Jurors of Aiken County present upon their oath:

BURGLARY IN THE FIRST DEGREE

That CEDRIC LLOYD WOODS did in Aiken County on or about June 12, 1999, willfully and unlawfully enter the dwelling of A. M. E. located at 785 University Parkway, Apartment G-1, Aiken, South Carolina, without consent and with the intent to commit a crime therein and the defendant was armed with a deadly weapon or explosive, all in violation of §16-11-311, Code of Laws of South Carolina (1976), as amended.

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


BARBARA R. MORGAN, SOLICITOR

ROA 85

WITNESSES

H. Nimau, A.C.S.O.

FILED

APR 19 2000

[Signature]

[Signature]

DEPUTY CLERK

ARREST WARRANT NUMBER

ct Indictment

ACTION OF GRAND JURY

[Signature]

[Signature]

person of Grand Jury

March 30, 2000

VERDICT

person of Petit Jury

to:

DOCKET NO. 2000-GS-02- 533

2

The State of South Carolina

County of Alken

COURT OF GENERAL SESSIONS

APRIL 10, TERM 2000

THE STATE

vs.

CEDRIC LLOYD WOODS

**Indictment for
POSSESSION OF FIREARM OR KNIFE
DURING COMMISSION OF OR
ATTEMPT TO COMMIT A VIOLENT
CRIME**

SC Code: 16-23-490

CDR Code: 549

Class FEL-F

ROA 86

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

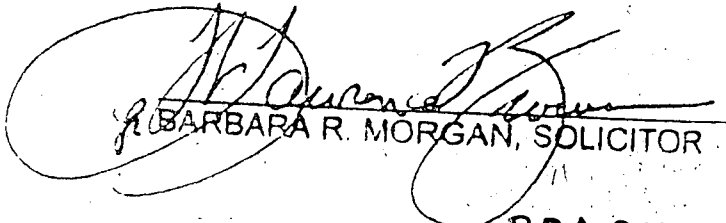
INDICTMENT

At a Court of General Sessions, convened on April 10, 2000, the Grand Jurors of Aiken County present upon their oath:

POSSESSION OF FIREARM OR KNIFE DURING COMMISSION OF OR
ATTEMPT TO COMMIT A VIOLENT CRIME

That CEDRIC LLOYD WOODS did in Aiken County on or about June 12, 1999, possess or visibly display a firearm or visibly display a knife during the commission or attempted commission of a violent crime, to wit: Burglary In The First Degree, all in violation of Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

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


BARBARA R. MORGAN, SOLICITOR

ROA 87

WITNESSES

H. Nima, A.C.S.O.

FILED

Deputy Clerk

ARREST WARRANT NUMBER

at Indictment

ACTION OF GRAND JURY

person of Grand Jury
March 30, 2000

VERDICT

person of Petit Jury

DOCKET NO. 2000-GS-02-534

2

The State of South Carolina
County of Alken

COURT OF GENERAL SESSIONS

APRIL 10, TERM 2000

THE STATE
vs.

CEDRIC LLOYD WOODS

Indictment for
POSSESSION OF FIREARM OR KNIFE
DURING COMMISSION OF OR
ATTEMPT TO COMMIT A VIOLENT
CRIME

SC Code: 16-23-490

CDR Code: 549

Class FEL-F

ROA 88

STATE OF SOUTH CAROLINA)

INDICTMENT

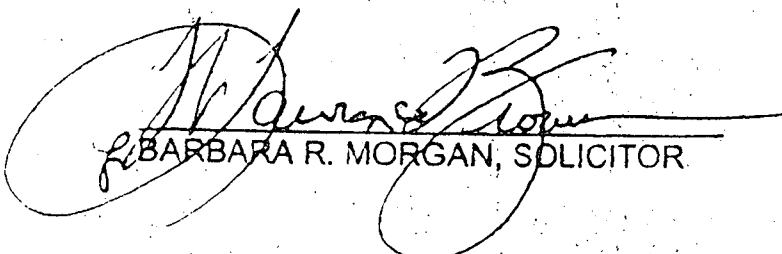
COUNTY OF AIKEN)

At a Court of General Sessions, convened on April 10, 2000, the Grand Jurors of Aiken County present upon their oath:

POSSESSION OF FIREARM OR KNIFE DURING COMMISSION OF OR
ATTEMPT TO COMMIT A VIOLENT CRIME

That CEDRIC LLOYD WOODS did in Aiken County on or about June 12, 1999, possess or visibly display a firearm or visibly display a knife during the commission or attempted commission of a violent crime, to wit: Attempted Armed Robbery, all in violation of Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

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


BARBARA R. MORGAN, SOLICITOR

ROA 89

WITNESSES

H. Nimau, A.C.S.O.

FILED

C.C.P. & U.S.

Deputy Clerk

DOCKET NO. 2000-GS-02-

535

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

APRIL 10, TERM 2000

ARREST WARRANT NUMBER

irect Indictment

**THE STATE
vs.**

CEDRIC LLOYD WOODS

ACTION OF GRAND JURY

oreperson of Grand Jury
ate: March 30, 2000

VERDICT

oreperson of Petit Jury
ate:

**Indictment for
POSSESSION OF FIREARM OR KNIFE
DURING COMMISSION OF OR
ATTEMPT TO COMMIT A VIOLENT
CRIME**

SC Code: 16-23-490

CDR Code: 549

Class FEL-F

ROA 90

ROA 90

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

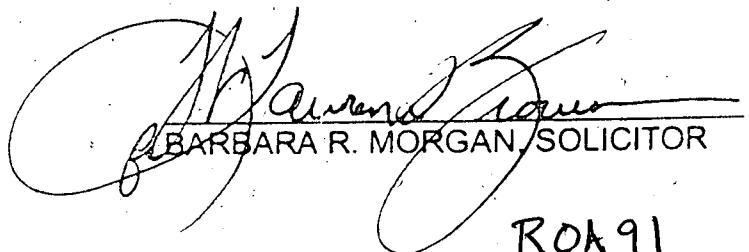
INDICTMENT

At a Court of General Sessions, convened on April 10, 2000, the Grand Jurors of Aiken County present upon their oath:

POSSESSION OF FIREARM OR KNIFE DURING COMMISSION OF OR
ATTEMPT TO COMMIT A VIOLENT CRIME

That CEDRIC LLOYD WOODS did in Aiken County on or about June 12, 1999, possess or visibly display a firearm or visibly display a knife during the commission or attempted commission of a violent crime, to wit: Kidnapping, all in violation of Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

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


BARBARA R. MORGAN, SOLICITOR

ROK 91

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.

AMICUS CURIAE BRIEF CONDITIONALLY SUBMITTED

This Amicus Curiae Brief is conditionally submitted per Rule 213 SCACR, along with a Motion for Leave to file, and in support of the above captioned Appellant, Cedric L. Woods. It is respectfully submitted by Randall Smith, a fellow inmate of Woods.

ROA 92

This author, Randall Smith, # 312339 (hereafter Smith,) respectfully comes before this Court and conditionally submits this Amicus Brief with a Motion for Leave to File, per Rule 213, SCACR, and in support of Cedric L. Woods, # 265789, Appellate Case No. 2016-002367.

Reasons for this Brief

Smith, a fellow inmate of Woods at Allendale Correctional Institute (ACI), submits this brief with the hope of furthering justice and clarifying points of law that are not articulated as well as they should have been in Woods' brief. Woods and Smith have studied together because Woods is nearly blind from a stroke he suffered three years ago. In the five years that Smith has known him, Woods has always insist that he is innocent.

SCDC law libraries are antediluvian and the SE2d books stop at volume 568, or February, 2003. Subsequently, they did not have a printed copy of *St. v Gentry*, 610 SE2d 494, or *Evans v St.* 611 SE2d 510, (2005), which were needed for them to analyse and digest. As a result of this hindrance, they had failed to see the less than obvious fact that Evans applied *Gentry's* holding regarding subject matter jurisdiction (hereafter smj), to illegal grand juries and indictments that are nullities, and that in order to preserve such an issue for appellate review, it must be raised and ruled upon below.

With only one day a week to access the prison's sad law library, and for only two - 2 to 3 hour periods on that day, added to that fact, any case more recent than 2003 has to be read on one of two old computers with Westlaw Online, and for only a one hour per period, they were focused on the case's head notes, of which there are 27.

Most of these head notes are deceptively suggestive that they supported Woods' assertions. The aspect of appellate preservation in the case's

opinion section, while not totally obscure, it is not readily apparent to the average inmate unskilled in the law, or prison law library clerks that are still insisting that trial courts do not have smj without a valid indictment, and of course they are wrong.

Herein, Smith hopes to better articulate what Woods, with Smith's help, tried to express; that his indictments were fraudulent and per Evans, were nullities, and even though the trial court had smj, the indictments were not valid, and the trial court was then in "excess of its jurisdiction."

As to the issue of preservation of his claims, which the State has challenged, fraud upon the court, Rule 60(b)(3), SCRPC, has no statute of limitations. Additionally, excess of jurisdiction, like smj, "because it involves the court's power to hear a case, can never be forfeited or waived. Consequently, defects in [excess of jurisdictions] require correction regardless of whether the error was raised [below]." *St v Gentry*, quoting from *U.S. v Cotton*, 122 Sct at 1785.

Facts of the Case

Woods was arrested and indicted for kidnapping, CSC, burglary first, armed robbery, and weapons counts on each charge, (8 total). He was convicted of kidnapping, Abhan, (lesser included of the CSC charge), burglary first, and armed robbery despite being acquitted of all four weapons charges. The weapon charge was the sole aggravating element on the burglary first indictment and sans a weapon, a necessary element of both charge, he could not be guilty of either crime. This was a "red herring" in of itself.

These two convictions without a weapon were not contested by his trial counsel before the judge passed sentence. The fact that the jury did not believe a weapon existed, which was a necessary element in those two charges, means that the State did not meet the Winship burden of proof on every element of the charged crimes.

Woods was never served with any of his indictments prior to trial and these eight indictments themselves show prima facie evidence of fraud right on their faces. They are dated four and ten days prior to the supposed terms of court which are also in conflict with the statutory terms of court set forth in § 14-5-630(1).

Argument

The jurisdictional interpretation in Evans ignored well-established principles of constitutional and statutory construction that affects fundamental rights embodied in the Due Process Clause. Excesses of jurisdiction violate the fundamental right to fairness, therefore they are unconstitutional and require correction. They are repugnant to the reputation and integrity of our judicial system.

The ruling in Evans allows Solicitors in this State to all but ignore indictment processes without any worry about the consequences of due process violations. This allows and even condones abuse of government power. A defendant has no recourse if his lawyer does not challenge his indictment at trial. Even if an illegally obtained indictment is quashed at trial, the Solicitor only has to convene a legal grand jury and start over, he has nothing to fear if he violates someone's fundamental rights.

This is the kind of unchecked power that leads to abuse; something our Founding Fathers sought to prevent and indictments were one of the means they intended to protect us all; that we cannot be hauled into court without just cause.

Except for the aspect of issue preservation, Evans supports Woods' claims that his indictments were nullities and that they would fail to give the required notice demanded by due process and our Constitutions. The dates of return being four and ten days prior to the supposed terms of court that are in conflict with statute

certainly lends credibility to Woods' claim of fraud. This is extrinsic fraud upon the Court and has no statute of limitations and thus Woods' claim is preserved by rule of law.

This prima facie evidence is also enough to rebut the presumption of regularity. See Evans citing *St v Griffin*, 285 SE2d 631 (1981).

Woods also raises the issue of "excess of jurisdiction" instead of smj. Excess of jurisdiction, like smj, is about the court's power and authority to hear a particular case, and if the conditions which authorize that power are absent or wanting, the trial court is in excess of its jurisdiction and its power to act is not lawfully invoked. Because it involves the court's power to act or hear a case, just as does smj, it can never be forfeited or waived, even with the consent of both parties.

As such, the issue of jurisdiction, the "excess" of jurisdiction, preserves Woods' claims that the indictments were nullities, and because valid indictments, properly served, are a condition precedent to a criminal trial, the criminal trial court, even though it had smj to hear the case, it was in excess of its jurisdiction and its power to act was not lawfully invoked.

"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." *Broom v Douglass*, 175 Ala. 268, 57 So. 860, Alabama Supreme Court, (1912)

Excess of jurisdiction is by far, not a novel concept nor a recent invention. It dates back to 1872 in the U. S. Supreme Court with *Bradley v Fisher*, 13 Wall 335, 80 U.S. 335. This case was

basically a legal feud between Bradley, who was John Surrat's trial Counsel in his trial for the murder of President Lincoln, and Judge Fisher, the presiding trial judge. This case was cited in *Stump v. Sparkman*, 98 S Ct 1099, (1978), for its explanation and example of the term - "excess of jurisdiction."

Gentry, Evans and their progeny in the 13 years since, all support the fact that an indictment is required. "The law requires the presentation of a grand jury as a condition precedent to the trial of a crime...." *St v Beachum*, 342 SE 2d 597, (1986), citing S.C. Const. art 1, § 11. Per Evans, if this condition of a valid indictment is absent or if the indictment were a nullity, it would be as if none ever existed. The trial court would be in excess of its jurisdiction and Contrary to Evans, because this involves a court's power to hear a case, it can never be forfeited or waived, just like smj.

Additionally, the condition of a properly served valid indictment is not only required by due process, but because it is a provision of our Constitution, art 1, § 23, states that the provisions of the Constitution are mandatory - without exception.

Waiver of a Valid Indictment

"We the People..., in order to form a more perfect Union, establish Justice,... and Secure the Blessings of Liberty...." Few inmates in S.C. prisons, all of whom were defendants, would recognize these words as belonging to the Bill of Rights. Fewer still would know the attendant procedures for impaneling a legal grand jury or for the return of a valid indictment. They inherently trust our legal system to maintain its integrity, that it will live up to its reputation; one of justice for all. How then can he give informed consent to waive a right that he does not know he is waiving?

Fundamental rights are meaningless to an accused if his ignorant failure to claim his rights removed any of the protections that they were intended to serve. Our Founding Fathers would find this holding in Evans abhorant and repugnant to the ideas they sought to defend and instill in our laws and our Constitution. Evans does not provide for, nor does it even address informed consent to waiver of the right to Notice. (Above is a paraphrase from Johnson v Zerbst, below.)

Justice Pleicones addressed this in his dissent in Gentry and he took no part in the Evans decision. He pointed out that of the three functions an indictment serves, the first two are for the benefit of the accused and can be waived. But the third function is for the benefit of the court, to pass judgment and is not subject to waiver. Neither Gentry or Evans addressed the Solicitor's failure to even serve the indictments as it was in Woods' case. Notice that the copies he has submitted to this Court were not clock stamped by the Aiken Clerk of Court; - Another red flag against the State.

"Courts indulge every presumption against waiver of fundamental rights and do not presume acquiescence in the loss of fundamental rights" Johnson v Zerbst, 58 S.Ct. 1019 (1938). "A waiver is the intentional relinquishment or abandonment of a known right or privilege." "Waiver is different from forfeiture. Whether a particular right is waivable; whether the defendant must participate personally in the waiver; whether certain procedures are required; and whether the defendant's choice must be informed or voluntary, all depends on the right at stake." U.S. v Olano, 113 S.Ct. 1770 (1993).

More recently, "A waived claim or defense is one that a party has knowingly and intelligently relinquished." Wood v M. Lyard, 132 S.Ct. 1826 (2012). Simply put, Woods could not have known that he was waiving his right to notice. Since he was never served with a copy of the indictments he could not have noticed the discrepancies in dates and terms of court and apparently neither did his lawyer or the trial judge.

The holding in Evans is better described as forfeiture, rather than waiver. "As the Government notes, 'the issue in this case is more accurately described as one of forfeiture rather than waiver,' although jurists often use the words interchangeably, forfeiture is the failure to make the timely assertion of a right; waiver is the intentional relinquishment or abandonment of a known right." *Kontrick v Ryan*, 124 S.Ct. 906, (2004) (footnote 13).

Other Factors to Consider

It appears to both Woods and Smith that several Solicitors from different circuits are guilty of convening grand juries illegally and with Evans covering their backs, this is likely to spread. Public defenders, (or as commonly referred to by inmates as "public pretenders") are careless at best, when it comes to protecting the rights of those they have been appointed to represent. For instance, when is the last time you have seen or heard of a p.d. filing a § 17-23-90 petition when their client is still in jail after two terms of court have past without an indictment?

If allowed, these Solicitors will become criminally negligent of defendant's rights with impunity. No one should be allowed to break laws to enforce laws. Evans does not provide for informed consent and any waiver of a fundamental right is not to be presumed. The element of knowledge of a waiver or forfeiture is fundamental. Evans is regressive; it is not compatible with "the evolving standards of decency that mark the progress of a maturing society." It diminishes our rights and fails to protect them. *Trop v Dulles*, 78 S.Ct 590, (1958). * ("basic (constitutional) rights.")

Only those in better financial situations that do not have to depend on appointed counsel and can afford a private lawyer, will have their rights

* While this quote was extended to the Eighth Amendment, it should also apply to other fundamental rights.

protected. While this is not a total violation of equal protection, it can become invidious discrimination if prosecutors are not held in check.

The U.S. Supreme Court also held 135 years ago that, "[t]here are cases... in which the objection to the grand jury may be taken at any time. These are where the whole proceeding of forming the panel is void; as where the jury is not the jury of the court or term in which the indictment is found...." U.S. v Gale, 3 S Ct 1, (1883). This fits Woods' Case.

Indictments returned four and ten days prior to the terms of court certainly fits and the court of common pleas was mandated for the supposed terms of court on the indictments' faces. As such, it was "not the jury of the court or term in which the indictment[s] were found." Gale is "clearly established federal law" as decided by the U.S. Supreme Court.

Neither Woods or Smith have found a U.S. Supreme Court case that has expanded Cotton's holdings to such an extent as has Evans.

Conclusion

Prima facie evidence of fraud exist right on the faces of all eight indictments returned against Woods. The dates are four and ten days prior to the supposed terms of court that are themselves in conflict with the statutory terms of court. This is obviously extrinsic fraud and there is no statute of limitation on such. This fraud preserves this issue for this Courts review and action.

Additionally, this makes the indictments a nullity and void which further put the trial court in excess of its jurisdiction because the required condition that a defendant be properly served with a valid indictment prior to the commencement of trial was wanting and hence, the trial court's authority and power to act was not in fact

lawfully invoked. Since excesses of jurisdiction involve the power of a Court to act in a particular case, and can never be forfeited or waived, and consequently, such errors require correction regardless of whether or not they were raised in the trial court.

Subsequently, there are two valid reasons to vacate Woods' sentences and convictions; fraudulent indictments and the excess of the trial court's jurisdiction.

The holding in Evans that any objection to the legality of the grand jury or the indictments returned must be raised before the petit jury verdict at trial, is repugnant to statutory and constitutional laws of this State and these United States. Few inmates in this State's prisons could recognize the Bill of Rights. Fewer still would know the legal procedures involved in the indictment process, one of the most fundamental of rights, and their ignorant failure to claim those rights should not remove their protection.

The accused person has to trust the integrity and reputation of our legal system to be fair and to be uncorrupted. Left to their own devices, our State's Solicitors cannot be counted on to be fair and be uncorruptable without the checks and balances our Constitutions provide, as is evidenced in Woods' indictment dates. His lawyer and the trial court failed to question these discrepancies as nothing is noted in the record.

Smith, for the above stated reasons, respectfully urges this Court to do what he sees as the right thing to do, and vacate Woods' sentences and convictions, and reverse the aspect of Evans that requires a challenge to the legality of grand juries or the indictments returned prior to the jury verdict in a criminal trial and declare that aspect unconstitutional.

Respectfully submitted,

Randall Smith

Randall Smith, # 312339

Appellant's Certificate

I hereby certify that this Amended Record on Appeal is as complete and in accordance with the applicable rules in the SCACR and that all the material included is relevant to this Appeal.

While this Court rejected the Amicus Brief that is included here, the Appellant respectfully asks that it be accepted should further explanation of difficulties and travails he faced and it better explains his legal position. If necessary, he asks that it be included as a Memorandum or Supplement.

Respectfully Submitted

Cedric L. Woods, #265798

Pro se

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JUN 04 2019

SC Court of Appeals

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

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JUN 04 2019

SC Court of Appeals

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

v.

State of South Carolina, ...Respondent.

PROOF OF SERVICE

I hereby certify that I have on this the 30th day of May, 2019
have placed in the USPS mail, copies of my Amended Record on
Appeal to both, the S.C. Court of Appeals and the Office of the S.C.
Attorney General.

Respectfully submitted
Cedric L. Woods

Cedric L. Woods, # 265789

Pro se

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