The South Carolina Court of Appeals

Gavin V. Jones, # 259726, Appellant,

v.

State of South Carolina, Respondent.

Appellate Case No. 2018-001099

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

_____________________________ J.

_____________________________ J.

_____________________________ J.

Columbia, South Carolina

cc:
Gavin V. Jones, 00259726
Taylor Zane Smith, Esquire
Alan McCrory Wilson, Esquire

FILED
Aug 23 2021

RECEIVED
OCT 14 2021
S.C. SUPREME COURT

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Gavin V. Jones, Appellant,

v.

State of South Carolina, Respondent.

Appellate Case No. 2018-001099

Appeal From Anderson County
J. Cordell Maddox, Jr., Circuit Court Judge

Unpublished Opinion No. 2021-UP-147
Submitted March 1, 2021 – Filed May 5, 2021

AFFIRMED

Gavin V. Jones, pro se.

Attorney General Alan McCrory Wilson and Assistant Attorney General Taylor Zane Smith, both of Columbia, for Respondent.

PER CURIAM: Gavin V. Jones appeals the circuit court's dismissal of his petition for a writ of mandamus to compel the State to release him from his incarceration. Jones argues he was entitled to a writ of mandamus directing his release because the indictment that resulted in his imprisonment was issued during a week in which there was no corresponding term of general sessions court and the

circuit court therefore lacked subject matter jurisdiction to try him on the offense charged in the indictment. We affirm.

In dismissing Jones's petition, the circuit court correctly held an indictment is merely a notice document. *See State v. Gentry*, 363 S.C. 93, 102, 610 S.E.2d 494, 500 (2005) ("The indictment is a notice document."). The record also supports the circuit court's finding that Jones failed to set forth any reason as to why the indictment at issue provided insufficient notice about the charge he was facing.

Furthermore, the grand jury convened and indicted Jones pursuant to a facially valid order issued by the Anderson County Court of General Sessions on December 10, 1998. That order directed the Anderson County Grand Jury to report for duty on various dates, including January 5, 1999, the date of Jones's indictment.[1]

Therefore, we hold the circuit court acted within its discretion in declining to issue a writ of mandamus and affirm the dismissal of Jones's petition. *See Charleston Cnty. Sch. Dist. v. Charleston Cnty. Election Comm'n*, 336 S.C. 174, 179, 519 S.E.2d 567, 570 (1999) (stating mandamus "is based on the theory that an officer charged with a purely ministerial duty can be compelled to perform that duty in case of refusal." (quoting *Lombard Iron Works & Supply Co. v. Town of Allendale*, 187 S.C. 89, 95-96, 196 S.E. 513, 516 (1938)); *id.* ("Whether to issue a writ of mandamus lies within the sound discretion of the trial court, and an appellate court will not overturn that decision unless the trial court abuses its discretion.").

AFFIRMED.[2]

WILLIAMS, THOMAS, and HILL, JJ., concur.

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[1] In his brief to this court, Jones references an order issued by the late Chief Justice Finney on December 1, 1998, that incorporated a revised schedule for the statutory terms of circuit court for the first half of 1999 that did not include a term of general sessions court in Anderson County during the week of January 4, 1999; however, Justice Finney's order also authorized the scheduling of additional terms of court "during this period by subsequent orders depending upon the availability of judicial resources and caseload information."

[2] We decide this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

Cordell Maddox, Jr., Circuit Court Judge

Case No. 2018-001099

Gavin V. Jones, ... Appellant.

V.

State of South Carolina, ... Respondent.

FINAL BRIEF OF APPELLANT

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Statement of Issue on Appeal

This matter comes before the Court pursuant to a "Petition for" a Writ of Mandamus filed March 14, 2012. In its return and motion to dismiss, the respondent requested that the petition be summarily dismissed. A motion hearing was held on February 20, 2014, before the Honorable J. Cordell Maddox, Jr. The applicant was present at the hearing. Rodney W. Richey, Esquire was relieved as counsel. Judge Maddox provided the respondent with a printout of 14-9-410, before the hearing, stepping out of his role as judge. (See Exhibit D for clarification). The hearing started at 10:34 AM and ended at 10:45 AM. Four years later an order of dismissal was signed on February 6, 2018 by Judge Cordell Maddox. A 59(E) was filed by the appellant and denied on April 26, 2018. As a result, this appeal follows to the Honorable Court.

TABLE OF AUTHORITIES

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Anderson v. State, 527 S.E. 2d 298 (S.C. App. 200)
Beach v. Lady, 262 S.W. 2d 837 (Ky. 1953)
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U.S. Constitution
Amendment V
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OTHER RESOURCES

Black's Law Dictionary, Pocket Edition 2d (2001)

QUESTIONS PRESENTED

(1) Did the lower court err by not ruling that the solicitor's office have a ministerial duty to follow the lawful procedure for obtaining indictments in S.C. Code of Law 14-9-210?

(2) Did the lower court err by not ruling that the solicitor's office have a ministerial duty to follow S.C. laws when obtaining a lawful indictment?

(3) Did the lower court err by ruling that an illegally obtained indictment can give notice and exercise Subject-Matter-Jurisdiction over his person and case?

(4) Does the trial court have Subject-Matter-Jurisdiction over a case that was obtained by violating S.C. Code of Laws 16-9-10 A2 (Perjury and Subornation of Perjury)?

To save the court time, the appellant will argue all these questions together.

FACTS

(1) There was no General Sessions Court on January 5, 1999, for the Grand Jury to convene upon the oath.

(2) By order of Chief Justice Ernest A Finney, the General Court session started on January 11, 1999.

(3) False information was presented on the appellant's indictment as to where, when and what court indicted him.

ARGUMENT

This is not complicated. The State is making this complicated by trying to twist the law to fit the facts that they presented. On December 1, 1998, Chief Justice Finney canceled the term of the General Sessions Court. (See Exhibit"A1"). On December 10, 1998, an order was signed by Judge H. Dean Hall by request of Solicitor George M. Duckworth requesting that the Anderson County Grand Jury convene for the next six (6) month term of General Sessions Court for the year 1999, to dispose of a number of pending cases. Regardless of what the order requested, there was no General Sessions Court on any of the dates listed on the order which started with January 5, 1999. General Sessions Court did not start until January 11, 1999, so how did the Grand Jury convene upon their Oath at a Court of General Sessions on January 5, 1999, when there was no General Sessions Court. The Clerk of Court wrote a letter explaining that "At the beginning of a new year, the first gathering is an organizational meeting where we draw names and seat the New Grand Jury according to state law." (See Exhibit "C").

It is the Solicitor's and the Court's jobs to see that the S.C. Code of Laws governing the indictment procedures are followed. There is NO discretion. Any procedure outside this process voids the indictment. For the sake of arguendo, what if I worked all week cleaning a property as a part-time job and when I was paid, I was handed a hundred dollar bill. Being tired, dirty and hungry, I went to the grocery store to get food and other things that I needed before going home. When I got to the counter and gave the cashier the hundred dollar bill, she ran it under a blue light and then made a phone call to the manager. He informed me that the bill was counterfeit. No amount of pleading would make the manager accept the phony money. He stated, "It's as close to the real thing as I have ever seen, but it is still counterfeit." The procedure to make the bill legally was not followed. I humbly explain that the same principle applies as the indictment used in this case. The Solicitor had a ministerial duty

to follow the indictment procedures outlined in the S.C. Code of Law. By not doing his job in accordance with those rules, he violated my procedural due process rights.

Before I go on and explain this case with facts and conclusions of law, I would like to present the following thought; what is the point of having a Grand Jury if the Solicitor decides on his own who is indicted rather than letting the Grand Jury decide? And, if this Court allows this, then what is next? Laws were made so that the stronger might not in all things have their way. The purpose of law is to prevent such treatment as having a man unjustly seized by the State, charged and convicted for violating a state criminal law, and then ordering him to be confined for the rest of his natural life. The Constitution requires that a man be tried in accordance with the guarantees of all provisions of the Bill of Rights such as those set forth in the Fourteenth Amendment.

Judge Finney's order canceled all general sessions terms in Anderson County prior to the beginning of his "January 11, 1999," term; (See Exhibits). Accordingly, appellant submits that Judge Hall and Solicitor Duckworth's order for a January 5, 1999, term of general sessions in Anderson County convene a grand jury to present the appellant's indictment was prohibited by Chief Justice Finney's order and the S.C. Constitution. (See S.C. Const. Art. V, Sec 4).

Having clearly shown that Judge Hall and Solicitor Duckworth could not have ordered a January 5 1999 term of general sessions in violation of S.C. Constitutional requirements, the appellant now directs this Court's review of whether an "unconstitutional grand jury proceeding" could have deprived the Circuit Court of its subject matter jurisdiction over the appellant's case. To resolve this question, one must first interpret the holding by the U.S. Supreme Court in U.S. v. Cotton, 122 S. Ct. 1781 (2002), which guided this Court's holding in State v. Gentry, 610 S. E. 2d 494 (2005). In both Cotton and Gentry, the Courts held that the term "subject matter jurisdiction" means the Court's statutory and constitutional power to adjudicate a case. Indeed,

under the S.C. Constitution, Article V, §11, the general sessions court has subject matter (criminal) jurisdiction to hear and determine this class of case. Cotton, infra, Gentry, infra.

Notwithstanding, the issue raised in the appellant's motion is not a challenge to the court's subject matter jurisdiction to hear and determine criminal cases, appellant concedes that authority is granted by the S.C. Constitution. Instead, the appellant is contending in his motion that the State (Respondent) has failed to comply with constitutional and statutory laws,/jurisdictional in nature, specifying the manner and means for lawful presentment of his indictment by a legally convened grand jury for the circuit court to act under its power, or criminal jurisdiction, to adjudicate his criminal case.

Accordingly, in South Carolina, the lawful return of indictments for circuit court's power (jurisdiction) to adjudicate criminal cases is determined by the Constitution, the statutory laws of the State, and is fundamental. (See Anderson v. Anderson, 382 S.E 2d 897 (1989). An assessment of these laws shows that "no person may be held to answer for any crime ... unless on a presentment of indictment by a grand jury. (S.C. Const. Art. 1, §11). Further, the grand jury as lawfully drawn for service upon general sessions court... shall meet with the court "at each of its terms" (to deliberate and return indictments). (S.C. Const. §14-9-170). The grand jury of each court... shall consist of eighteen (18) members, twelve (12) of whom must agree (on a True Bill) before a case can be presented for trial by the circuit court. (S.C. Const. Art. V, §22).

The S.C. Statutory Law also mandates that the County Solicitor shall prepare and, through the presiding judge of general sessions court, submit to the grand jury, "while in attendance upon general sessions court" (in accordance with §14-9-17-), bill of indictment (for grand jury's presentment). No indictment may be true billed by grand jury when circuit court lacks jurisdiction (or is not in a term), since grand jury's

jurisdiction is coextensive with criminal jurisdiction of the circuit court in which it is convened and for which it is to make inquiry (on whether or not to "True Bill" or "No Bill" indictments). (See State v. McClure, 289 S.E. 2d 158 (1982); State v. Wheeler, 193 S.E. 2d 515 (1972).

Jones asserts and argues, inter alia that although subject matter contained in the charging instrument upon which he was tried and convicted appears to be correct, he was nevertheless tried and convicted without a **PROPER** and/or lawfully **VALID INDICTMENT**; in violation of his right to due process of law pursuant to U.S. Const. Amend(s) V & XIV., 1 and S.C. Const., **{fn.1}**. That is to say, Jones was tried and convicted with an indictment, consequently void of power; a nullity, and technically, non-existent in violation of S.C.C.A., 17-19-10 INFRA. (See State v. Funderburk, 259 S.C. 256 191 S.E. 2d 520 (1972) (Where the defendant was tried and convicted upon indictment which was a nullity, it follows that he was convicted in violation of this section).

Moreover, Jones asserts and argues, that the indictment returned January 5, 1999, by the Anderson County Grand Jury, upon which he stands convicted, first of all, was not **"lawfully issued" as defined by statutory criminal law.** And secondly, the **Ex Parte procedure** upon which said indictment was obtained was **fraudulent**, and presented by **"Sham Legal Process"** as defined by the same criminal statue, S.C.C.A. 16-17-735, ET SEQ. Consequently, in violation of

additional procedure/criminal statues as will be shown, infra. S.C.C.A., 16-17-735 states in pertinent part:

(B) It is unlawful for a person falsely to assert authority of state law in connection with a sham legal process. A person violating the provision of this subsection is guilty of a misdemeanor.

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(E) (3) "For purposes of this section: **Sham Legal Process** means the **ISSUANCE**, Display, **DELIVERY**, Distribution, **RELIANCE** on a lawful authority, or other use of an **INSTRUMENT** that is **NOT LAWFULLY ISSUED**, whether or not the instrument is produced for inspection or actually exists, which purport to:

(b) assert **JURISDICTION** or **AUTHORITY OVER** or determine or **ADJUDICATE THE LEGAL, EQUITABLE STATUS**, rights, duties, powers or privileges **OF A PERSON** or property; or

(c) require or authorize the search, seizure, **INDICTMENT, ARREST, TRIAL** or **SENTENCING OF A PERSON** or property. (Emphasis added).

Facts stated above and other violation of law, which will be proven herein, in all fairness, would render Jones' indictment fatally defective or a nullity altogether! **See** Evans v. State, 363 S.C. 495 611 S.E. 2d 510 (2005)...(A)n indictment or "notice document" issued by a grand jury which is established or constituted illegally is deemed a nullity. An indictment, which is a nullity, would be insufficient as a matter of law, to give the required notice to a defendant.

It is fundamentally well established that a citizen accused of felonious, or otherwise infamous crimes, may only be tried upon indictments returned ["True Bill"] by a grand jury. Essentially, this

mandate originates from the U.S. and S.C. Constitutions, and state statute S.C.C.A. 17-19-10, which states:

No person shall be held to answer in any court for an alleged crime of offense unless upon indictment by a grand jury, except in the following cases:

(1). Prosecution by information is expressly authorized by statute;

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(2). In proceedings before a police court or magistrate; and

(3). In proceedings before court martial.

Logically therefore, it stands to reason that any such indictment(s), in order to be valid, must be obtained through **LAWFUL PROCESS.** In other words, without a **PROPERLY** obtained indictment, the court - in this case, the Court of General Sessions – is deprived the power to try the accused; it simply does not have, **'In Personam Jurisdiction'**, as distinguished from **'Subject Matter Jurisdiction'**, See U.S. Const., Amend V S.C. Const., Art. I 11... [Fn. 2}

Published for our learning and understanding, Black's Law Dictionary, in which, are defined several types of jurisdiction as follows:

Jurisdiction--1. A government's general power to exercise authority...
2. A court's power to decide a case.

In Personam Jurisdiction—A court's power to bring a person to its

adjudicative process; jurisdiction over a defendant's personal rights; and Subject Matter Jurisdiction—jurisdiction over the nature of the case and the type of relief sought. (Emphasis added)

[T]he burden is on the defendant to prove facts upon which a challenge to the legality of the grand jury or its proceedings is predicated. Ex. EVANS v. STATE, **363 S.C. 495, 611 S.E. 2d 510 (2005).**

Now therefore, Jones would carry his burden in proving the facts supporting his challenge and the distinct jurisdictional differences to which one may argue and make reference... **See State v. Funderburk, 191 S.E. 2d** 520 (1972).

IN the amendment filed by petitioner in 2013 to this Mandamus; petitioner contends that the Anderson County Solicitor had a ministerial duty to provide petitioner any documents pertaining to any irregular process in the indictment procedure. Also, petitioner requested a hearing to determine whether the Court which tried him could use a void instrument to convey any jurisdiction over him in a Court of Law. **Anderson v. State, 527 S.E. 2d 398 (SC App 2000).** Subject Matter Jurisdiction, may be raised at any time if it deals with irregularities in how the document was presented. If the laws of procedure are not followed in obtaining an indictment it becomes a void instrument and can not convey jurisdiction of any kind over any citizens. **Gentry** is not applicable when dealing with an indictment if it was not lawfully presented. **Gentry** deals with the substance of an indictment not the presentment.

Now that I have spoken as a layman about the matter at hand, let me further explain. If the Court would look at Tr. Pg 9 Ln 2-16 of the Mandamus Hearing, the Court is speaking frankly about an indictment procedure used outside of the procedure outlined in S.C. Code of Laws.

The appellant asked the Court a question at the Mandamus Hearing. (Ln. 19) The Court responded "Yeah?"

Mr. Jones asked (Ln. 20) "Has 14-9-210 been repealed?" Mr. Jones is curious because the judge has just basically said, 'We do what we want' when obtaining an indictment.

The Court answers on (Ln. 22) "I have no idea, to be honest. And to be honest with you, I don't know. What does it say?".

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The appellant then reads 14-9-210 to the Court. On Ln. 10-25 the Judge describes a process totally outside S.C. Code of Laws 14-9-210 after admitting that the law is still active.

I humbly speak before this Court of Appeals panel. I don't know the reason why some Solicitors have been given unlimited control over the indictment process. I believe that for judicial economy some courts ignore certain S.C. Code of Laws. Does that make it right? Does it make it right to violate my 14th Amendment due process rights? Is it okay now to lie on indictments? The Grand Jury did not meet at the Court of General Sessions as described by law. Where did they meet in the court of record? You gave an oath that you met January 5, 1999, at the Court of General Sessions. Did the Grand Jury meet on that day? I beseech the integrity of this Judicial Council with the utmost respect. This is why you are here; why appeals are necessary. If the Solicitor's office and the lower Court will produce false information on a document required by the laws of this state, in other words commit perjury, fraud, or use sham legal process, how can this Court look the other way? The indictment used in this case is a void document. A void document can not give notice or convey any jurisdiction over me. On Tr. Pg. 7, Ln. 8-13, the Court said there is no requirement that the Grand Jury meet during a General Session term.

Appellant would ask this Court if a man is indicted during a Common Pleas term, can he also be tried for murder in a Court of Common Pleas? Of Course the answer would be **No,** just like it would be **No** if it was asked of the Family Court.

The elephant in the room is not that the state is right in their argument or that I am wrong in mine. Rather, it's how does this Court minimize what the S.C. Solicitors have abused all for the cause of judicial economy. So, I ask this Court if they would give

this weighty matter their sincerest consideration. I say this with the utmost respect and ask that the Court not kick this can down the road.

The next section of this brief will show how this void document became void. Essentially, one that is illegal.

DISCUSSION ON FACTS &

AND THE CUMULATIVE ERRORS

LAW

I. Fraud upon the Court

A. For reasons of jurisprudence and fairness in keeping with due process protections, the policy makers of our court system recognized matters pertaining to fraud upon the courts of this state. Exercising their keen foresight, they saw fit by the Rules of Civil Procedure (SCRCP) to create and implement provisions to set aside and /or vacate judgments due to fraud upon the court. [fn.3]

In general, extrinsic fraud upon the court can be defined as "... [A] fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner, its impartial task of adjudging cases that are presented for adjudication." See Evans v. Gunter, 294 S.C. 525, 366 S.E. 2d 44, 46 (1988) (Quoting H. Lightwey, J. Flanagan, S.C. Civil Procedure, 408 (2nd Ed. 1985))

B. Solicitor Duckworth was able to perpetrate "extrinsic" fraud upon the court in two ways: First, by giving the ex parte grand jury process an appearance of being legally and properly conducted; and secondly, the false indictment information operated in such a manner as to improperly mislead Jones and the trial court wherein the criminal matter was ultimately heard, causing both to falsely believe that the ex parte grand jury process whereby the indictment was obtained, was conducted and supervised by the proper court, in compliance with statutory law when it was not. Consequently, this unlawful action deprived Jones the opportunity to make an informed, contemporaneous objection as required by S.C. Code of Law, SS 17-19-90 [fn.4] because there were no apparent defects in the indictment or the proceedings. See State v. Richardson, 149 S.C. 121, 146, S.E. 676 (1928). "This section applies only where the defect appears on the face of the indictment."

C. In fact, because grand jury proceedings, wherein jurors receive and deliberate probable cause evidence and process indictments, are secretly held as ex parte hearings, the very reliance of those proceedings to be held in a lawful and ethical manner can only be presumed. Neither defendant nor his attorney are allowed in attendance to ensure this, therefore, are not made privy to what goes on within. Accordingly, this type of "extrinsic" fraud causes further harm to Jones and the integrity of our judicial process because it is conducted behind the scenes, quite possibly without a presiding judge, which would obviously allow the Solicitor unchecked influence over grand jurors.

II. Sham Legal Process

A. It must first be noted that the "True Bill" indictment returned against Jones charging him with the murder within its body, prints in pertinent part that:

"At a Court of General Sessions, convened on January 5, 1999, the Grand Jurors of Anderson County present upon their oath. . . . "

The body of the Grand Jury's sworn presentment also bears the signature of the Anderson County Solicitor, George Duckworth. Moreover, a "True Bill" stamp is affixed to the face, (title page) of the indictment bearing the signature of the grand jury foreman. See Exhibits ___ (Indictment). E-1

Secondly, the statutory and /or court sanctioned calendar schedule for the Tenth Judicial Circuit terms, published by the S.C. Supreme Court/ Administration, irrefutably demonstrates that **NO** Court of General Sessions had been scheduled or open on January5, 1999, as printed in Jones' indictment. (See Exhibits I-1___ (Court Order & Calendar with Indictments)).

Therefore; prima facie evidence shown therein conclusively proves that, contrary to the information printed by Solicitor Duckworth in Jones' indictment, the Anderson

County Grand Jury **<u>DID</u> <u>NOT</u>** convene at a Court of General Sessions, in violation of procedural, statutory law because none were open on January 5, 1999. <u>S.C. Code of Law, SS 14-9-210 states in pertinent part:</u>

"The county solicitor shall prepare and, through the presiding judge of the court of general sessions, submit to the grand jury, while in attendance upon the court of general sessions, bills of indictment in all cases pending in the county court in which the punishment may exceed a fine of one hundred dollars or imprisonment for thirty days... The grand jury shall act thereon and report its actions to the presiding judge of the court of general sessions... All cases in which bills of indictment are so found shall stand for trial..."

Demonstrated therefore, is the fact that false information is contained within the state's sworn indictment returned against Jones not only in violation of statutory laws such as <u>S.C. Code of Laws, § 16-17-735 & 16-9-10</u>, "Sham Legal Process" and "Perjury", but also, in violation of Jones' due process rights protected by the U.S. and S.C. Constitutions. **[fn.1]**

B. Further noted, is the fact that pursuant to <u>S.C. Code of Laws § 14-9-210</u>, supra, Ms. White, acting on behalf of the selected county solicitor, Mr. George Duckworth, was the one responsible for the presentation, processing, and presentment of Jones' indictment to the grand jury at a qualified Court of General Sessions. Presumably, it is this ex parte proceeding whereby criminal jurisdiction is legally established, and therefore, concomitant with trial court

to which Jones was bound over. "The jurisdiction of a grand jury is co-extensive with the criminal jurisdiction of the court in which it is impaneled and for which it is to make inquiry." <u>Id</u>. <u>Funderburk</u>, <u>supra</u>.

The facts, therefore, are clear and cannot be disputed; false court term information is contained in Jones' state/federal required indictment, which was

knowingly presented somewhere other than a Court of General Sessions as required by law. Solicitor Duckworth knowingly perpetrated these acts possibly in collusion with the clerk's office, whose responsibility it is to **properly** convene ex parte grand jury proceedings.

C. This illegally obtained indictment was then transferred to the trial court, supposedly conferring jurisdiction to it. But, instead thereof, it rendered both, the ex parte grand jury proceeding and the criminal court whereupon the matter was tried; as "sham legal process" by acting on the illegally obtained indictment, again, in violation of S.C. Code of Law, SS 16-17-735, supra. "[T]he court must strike down the indictment when a defendant demonstrates the grand jury which indicted him is a nullity. . . "Evans, supra. Finally, wherever, and by whatever means, the grand jurors did convene with Solicitor Duckworth for process, presentment, and issuance of Jones' indictment as "True Bill", it was an illegal assembly as a matter of law, pursuant to S.C. Code of Law SS 14-9-210. And as such, the indictment itself **was not** a "lawfully issued", state required indictment, causing the document itself to become a nullity to S.C. Code of Law, SS 16-17-735(E) (4), which states:

(E) (4) *"Lawfully issued" means adopted, **Issued** or rendered **IN ACCORDANCE** with the applicable statutes, rules, regulations, and ordinances of he United States, a state, an agency, or a political subdivision of a state.*

III. Perjury and Subordination

A. Jones asserts and argues that the facts and evidence presented herein demonstrate, that by subscribing his name to Jones' State indictment, Solicitor Duckworth violated his oath of office, committing perjury, because he signed the indictment used to convict Jones knowing it contained false court term information and was obtained by an unlawful process.

B. Furthermore, Solicitor Duckworth consequently committed subordination of perjury, in that he caused grand jurors to present upon their oath the same false court term information contained within Jones' indictment; unwittingly participating in the sham legal process from which the indictment was obtained.

By his conduct a prima facie case is shown against Solicitor Duckworth in violating a criminal statute, to suborn the Anderson County grand jurors to unwittingly commit perjury, S.C. Code of Law, SS 16-9-10, "Perjury against Public Justice". **[fn.5].** More importantly, our Supreme Court in Chewning, infra, held that, "[T]he subordination of perjury by an attorney and/or the intentional concealment of documents by an attorney are actions which constitute extrinsic fraud." Chewning v. Ford Motor Co., 354 S.C. 72, 579 S.E.2d 605 (2003). Accordingly, Jones has demonstrated further harm done to his case and the judicial process thereupon.

IV. Prosecutorial Misconduct

A. Fundamentally, it should be understood that Solicitor Duckworth, while acting on behalf of the People, was required to know and abide by the laws and rules of this State, having special responsibilities to see that justice was done, pursuant to SCACR, Rule 407, Rules of Professional Conduct, Rule 3.8 (comments). ". . . he [prosecutor] must see that no conviction take place except in strict conformity with the law, and that the accused is not deprived of any constitutional right or privilege." (Insert in original) State v. King, 222 S.C. 108, 71 S.E.2d 798 (1952); see also State v. Quattlebaum, 338 S.C. 441, 527 S.E.2d 105 (2000); and State v. Durden, 264 S.C. 86, 212 S.E.2d 581 (1975).

Obviously, Solicitor Duckworth knew he was participating in an ex parte grand jury proceeding which was not being held at a Court of General Sessions in accordance with law, and in violation of several other state procedural and criminal statutes. Consequently, his behavior must be viewed as "willful" and "deliberate". Therefore, his actions were indicative of gross misconduct, which contributed to Jones being deprived of fair and impartial criminal proceedings, beginning with this critical stage of the adversarial process. SCACR, Rule 407, Rules 8.4(b) & (d) state:

Rule 8.4 – It is professional misconduct for a lawyer to:

(b) . . . commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;

(d) . . . engage in dishonesty, fraud, deceit, or misrepresentation;

B. It may further be shown that similar problems have existed in both the recent and distant past regarding questionable and/or unlawful ex parte grand jury indictment proceedings. This has not been a new or unique problem. For example, the Solicitor's offices in Spartanburg and Greenville counties in South Carolina have been under investigation and shown in the news regarding their "assembly-line style" practice of processing indictments, wherein, only a few scant seconds were allowed to review and/or consider evidence before returning indictments as "True Bill". In fact, these proceedings have even been referred to as "rubber stamp" sessions. (See Exhibits m-1

Further noteworthy is the fact, that in Kentucky, whose statutory laws governing ex parte grand jury proceedings are very similar to ours here in South Carolina, their courts have experienced the very same problems of grand juries being convened unlawfully and in violation of statutory terms of court. "An indictment returned by grand jury when no court was in session was void." See U.S.C.A. Const. Amend. 14, SS 1; and "Failure of defendant to move to have indictment set aside, because returned when no court was in session, was immaterial, since the indictment being void, there could be no waiver." Beach v. Lady, 262 S.W.2d 837 (Ky. 1953).

CONCLUSION

In the order of dismissal the lower court has demonstrated nothing that shows that laws and rules governing presentment of a lawful indictment were followed.

On the contrary, Jones has presented attachments and law that clearly show that the indictment used in the present case is no better than a blank sheet of paper.

In South Carolina, there is **NO** jurisdiction that may be obtained with a blank sheet of paper. A void indictment is no better than a blank sheet of paper. The 14th Amendment, due process clause, protects Jones from being indicted with a void document. Jones was entitled to be brought to trial with a lawfully obtained indictment. Solicitor Duckworth had a ministerial duty to see that the indictment used in this case was lawfully presented. The State has failed to show how a document, in which statutory law has been ignored, that has false information printed on it, is lawful. The petitioner in this case was brought to trial illegally, because the document used in this case was a void document.

For the State to use the defense that the "Court noted during the hearing that there is no requirement that a term of General Sessions Court be convened for the Grand Jury to meet"; is a misrepresentation of fact and law; 14-9-210 has not been repealed. In as much, the Grand Jury gave an oath that they convened at a Court of General Sessions on January 5, 1999.

"No local rule of court, administration order, policy, or other procedure can take precedent over statutory law, which is always controlling. See, S.C. Constitution Article I, Section 14 and State v. Cottingham, 77 S.E.2d 897, 224 S.C. 181 (1953) (Statute overrides rules of court in conflict.); State v. Duncan, 264 S.E.2d 421 (S.C. 1980) (Circuit Court rule promulgated by individual and void).

In so far as the issue of whether or not a local rule, order, policy, or procedure was utilized for process and return of Jones' indictment is irrelevant because by State law, it would still have to be in agreement with the provisions of section 14-9-210, for it to be constitutional, as well as provisions of section 14-9-90, 14-5-210, 14-5-910, and 14-5-920. Moreover, Article V, Section 4 of our Constitution provides in pertinent part:

"The Supreme Court shall make rules governing the administration of all courts in this state. ***SUBJECT TO THE STATUTORY LAW*** *The Supreme Court shall make rules governing the practice and procedures in all such courts." (Emphasis added)*

Truly it would be a gross miscarriage of justice for the Court to arbitrarily ignore all the evidence that has been brought to light that clearly show that the indictment procedure in this case was wholly flawed. Will we say that it is okay to print false information on documents **(Indictments)** required by the laws of this state. The Statutory Laws are safe guards that protect citizens; it keeps the powers that be honest. When Statutory Laws are ignored lines are blurred and conspiracies develop to cover misconduct that put integrity in the back seat.

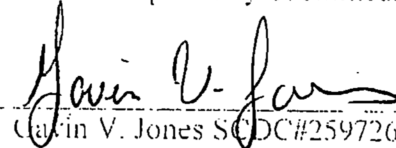
As a layman I don't have all the answers, I have to depend on the Court to stand in a position of integrity. I read Rule 407 of Profession Conduct and Rule 3.8. The (Prosecutor) must see that no conviction takes place except in strict conformity with the law and that the accused is not deprived of any constitutional right or privilege.

This is the job of the prosecutor and the Court. Further, the appellant can never be given notice with a void document (which is the same as a blank sheet of paper) that was used as an indictment.

There seem to always be avenues that would allow for what the state would call mistakes in law to be overlooked. But I say to this to this Court on bending knee that this is not a mistake. This was a deliberate violation of a man's procedure due process a "Practice". The state overlooks one of the most crucial points in what they have done. There is no accountability when they ignore statutory procedures, if the solicitor tells the Grand Jury Forman just stamp these indictments No Bill. and these indictments True Bill. who would know? If the solicitor himself steps in and talks with the Grand Jury about certain cases. who would know?

Appellate humbly asks that this Court's decision for relief. will show that this Court does not tolerate short cuts that violate a man or woman's 14th Amendment Due Process rights and the guideline for any Court of Appeals Judge is the law not a practice adopted by state solicitors and courts.

Respectfully Submitted.



Gavin V. Jones SCDC#259726
430 Oaklawn Road -- Q1B-112
Pelzer, South Carolina 29669

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
JAN 31 2019
SC Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

Cordell Maddox, Jr., Circuit Court Judge

Case No. 2012-CP-04-0861

Gavin V. Jones, ... Appellant,

v.

State of South Carolina, ... Respondent.

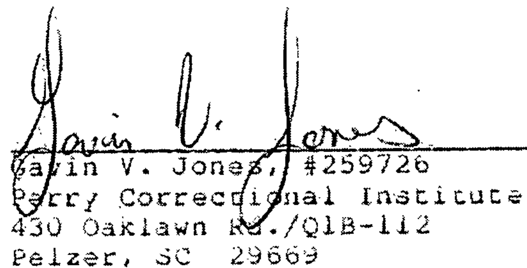
DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL

Appellant proposes the following be included in the Record on Appeal

1. Hearing Transcript; pp. 1-13
2. Supreme Court Order; December 1, 1998 (Ex. A-1)
3. Indictment # 99-GS-04-59 (Ex. B)
4. Letter from Clerk of Court; September 29, 2014 (Ex. C)
5. Order; December 2, 2013 (Ex. C-1)
6. Order; December 10, 1998 (Ex. D)
7. Certified Court Calendar; January 1999 (Ex. D-1)
8. Order of Dismissal; February 6, 2018 (Ex. E)
9. Motion to Alter/Amend Judgement (Ex. F)
10. Order; April 26, 2018 (Ex. G)

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

January 25, 2019



Gavin V. Jones, #259726
Perry Correctional Institute
430 Oaklawn Rd./QlB-112
Pelzer, SC 29669

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
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Case No. 2012-CP-04-0861

Gavin V. Jones, ... Appellant,

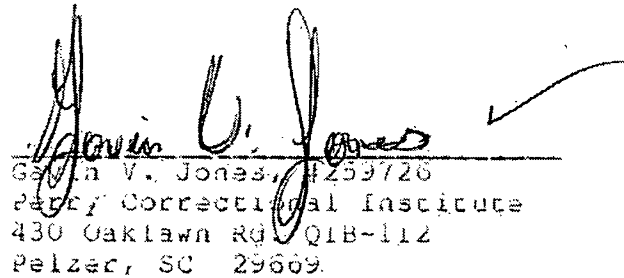
v.

State of South Carolina, ... Respondent.

PROOF OF SERVICE

I certify that I have served the INITIAL BRIEF OF APPELLANT & DESIGNATION OF MATTER upon Kelly Oppenheimer, Esq. by depositing a copy of it in the U.S. Mail, postage prepaid, on January 11, 2019 addressed to the S.C. Office of Attorney General; Post Office Box 11549; Columbia, SC 29211-1549.

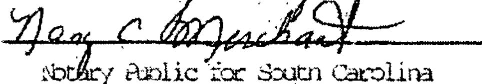
January 25, 2019



Gavin V. Jones, #259726
Perry Correctional Institute
430 Oaklawn Rd. Q1B-112
Pelzer, SC 29669

CC: Hon. Jenny Kitchens
SC Court of Appeals

SWORN TO AND SUBSCRIBED before me, this
29th day of January, 2019



Notary Public for South Carolina
My Commission Expires: 1-23-2027

1-29-19

Honorable Jenny A. Kitchings
S.C. Court of Appeals Clerk
P.O. Box 11629
Columbia, S.C. 29211

RECEIVED
JAN 31 2019
SC Court of Appeals

Re: Appeal of Mandamus

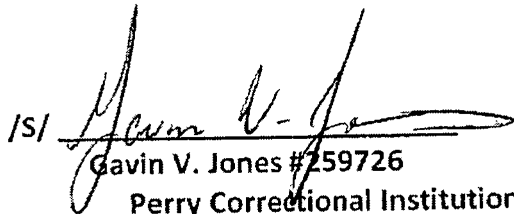
Dear Ms. Kitchings:

Enclosed please find my original appeal of a mandamus filed with this court and a proof of service of same filed with the Attorney General.

Sincerely,

CC: Attorney for Respondent

Appellants File



/S/

Gavin V. Jones #259726
Perry Correctional Institution
430 Oaklawn Rd. #Q1B-112
Pelzer, S.C. 29669

Mr. Gavin V. Jones #259426
Q-13-112 PCI
930 Oak Lawn Road
Pelzer, South Carolina
29669

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JAN 31 2019
SC Court of Appeals

RECEIVED
JAN 29 2019
P.C.I. MAILROOM

South Carolina Court of Appeals
Attn: Clerk
Jenny Abbott Kitchings
1220 Senate Street
Columbia, South Carolina
29201

Legal Mail

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	
Gavin V. Jones,	)	
Plaintiff,	)	
v.	)	Case No. 2012-CP-04-00861
State of South Carolina.	)	
Defendants	)	

COPY
TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on February 20, 2014, before The Honorable J. Cordell Maddox, Anderson County Courthouse, 100 South Main Street, Anderson, SC 29622; attended by counsel as follows:

APPEARANCES:

Rodney Wade Richey, Esq.,
Appearing for The Applicant.

John Walter Whitmire. Esq.,
Appearing for The State.

RECEIVED
NOV 05 2019
SC Court of Appeals

Vivian H. Cross
Circuit Court Reporter – 10th Judicial Circuit
P O Box 704
Belton, South Carolina 29627
vcross@sccourts.org

I-N-D-E-X

GAVIN V. JONES v. STATE OF SOUTH CAROLINA
CASE NO. 2012-CP-O4-00861
FEBRUARY 20, 2014

	PAGE NO.
COLLOQUY	3
COURT REPORTER'S CERTIFICATE	13

E-X-H-I-B-I-T-S

	IDENTIFICATION	ENTERED

*******NO EXHIBITS OFFERED*******

1 **P R O C E E D I N G S**

2 **10:34 A.M.**

3 **THE COURT:** And then on Jones, we've got a
4 Motion, is that right?
5 **MR. WHITMIRE:** May it please The Court; the
6 second matter before this Court today is *Gavin*
7 *Jones v. State of South Carolina*, 2012-CP-04-0861.
8 Mr. Jones filed a writ of mandamus to compel
9 my office to, uh, vacate his sentence due to
10 allegedly a defect in subject matter jurisdiction
11 from, um, the date that his Grand Jury was
12 convened.
13 Your Honor, um, Judge Macaulay appointed
14 Rodney Richie on this case about a year ago. I
15 believe a Motion hearing was convened on the
16 matter. Judge McIntosh recused himself due to
17 his, uh, familiarity with the victims. Therefore,
18 we are here again today on Respondent's Motion to
19 Dismiss pursuant to Rule 12(b). Uh, it's a three-
20 part Motion, Your Honor. Relief would be invalid
21 pursuant to the four part test required for a writ
22 of mandamus. Under *Edwards v. State*, 383 S.C. 82,
23 um, Applicant must show a duty of the Respondent
24 to perform the act; (2) the ministerial nature of
25 the act; (3) the Petitioner's specific legal right

1 for which discharge of the duty is necessary; (4)
2 lack of any other legal remedy.
3 Uh, Your Honor, Respondent has no control
4 over nullifying somebody's conviction. We're not
5 the proper party.
6 Regardless, on the merits, uh, pursuant to
7 Statute 14-5-410 and 420, uh, the claim itself is
8 completely invalid. There -- the Respondent
9 believes that it's, um, argument for latches.
10 Mr. Jones was convicted nearly twenty years ago
11 and has exhausted every possible, uh, avenue
12 to challenge his conviction. Multiple federal
13 habeases, multiple PCR's, direct appeal.
14 At this time, I turn matters over to
15 Mr. Richey.
16 **THE COURT:** All right; yes, sir.
17 **MR. RICHEY:** Thank you, Your Honor, may it
18 please The Court. Your Honor, my client -- I'll
19 just tell The Court -- he has sent me a Motion to
20 have me relieved in this case. Um, I discussed
21 those issues with him. Um, he has a different
22 opinion of what the law is than -- than I do, and
23 he -- he's asked that I be relieved and he argue
24 this Motion himself.
25 Um, he's made numerous filings and he has

1 numerous -- he has documents and all. Essentially
2 what it is, is -- it's his position that the Grand
3 Jury was not convened at the time that he was
4 indicted. Um, that it was illegal to convene it.
5 Justice Finney had issued an Order saying that
6 there was no term of Court this particular time.
7 And, if he was indicted during that particular
8 time, it -- it's his position that that Grand Jury
9 illegally met and indicted him. Therefore, the
10 indictment is defective. That's -- that's
11 essentially what his argument is. Um, but he
12 feels like that he should present this argument to
13 The Court.

14 **THE COURT:** All right. I -- I'll be happy to
15 hear from you briefly. I -- I've got your Motion
16 and basically this is a legal issue I'll just have
17 to look at and look at the, uh, Court history.
18 But, anything you want to tell me briefly I'll be
19 happy to hear from you.

20 **MR. JONES:** Uh, I just recently received this
21 right here, the 14-5-410. Uh, the Attorney
22 General had time to respond; I -- I give him a
23 Summons. And if he was gonna respond to it in any
24 kind of way as he just did he could-a did so
25 during that time, uh, because he -- like I said,

1 I -- he was given a Summons and for him to come in
2 today with, uh, with his argument now is
3 totally...
4 Also, uh, the issue is that they gave a Order
5 for, uh, the Grand Jury to convene, a Order that
6 wasn't supported by a Motion, uh, signed by Judge
7 H. Dean Hall. Uh, this Order said, uh, upon
8 Motion of George M. Duckworth for the Grand Jury
9 to convene for the next six months' term for the
10 General Sessions Court. Okay, well, Chief
11 Justice Finney cancelled Court, uh, for that term
12 and had Court -- General Sessions Court get
13 started January the 11th, okay? Uh, there was no
14 January -- no General Sessions Court on January,
15 uh, January the 5th. And, uh---
16 **THE COURT:** But now, the Grand Jury met on
17 the 5th, right?
18 **MR. JONES:** Well, they're saying the Grand
19 Jury met on the 5th. And, uh, according to, uh,
20 16-9-10, that's clearly in subordination of
21 perjury to put false information on a document.
22 That's what, uh, State law says. And that's what
23 they did; they said that the Grand Jury met for
24 the term of General Sessions Court on January the
25 5th when Chief Justice Finney cancelled Court on

1 January the 5th and had it to start on the 11th.
2 And I have his Order in the...
3 The Circuit Court can't overrule a Chief
4 Justice Order.
5 **THE COURT:** Okay.
6 **MR. JONES:** The Chief Justice signed his
7 Order on the 1st. His Order---
8 **THE COURT:** Well, the -- the question is
9 gonna be whether or not the Grand Jury can meet
10 apart from the General Sessions term. I mean,
11 there's no requirement that they meet during a
12 General Sessions term; they have their own
13 schedule.
14 But, um, Mr. Richey, did you prepare this?
15 The Notice of Motion and Motion to Dismiss?
16 **MR. RICHEY:** No, I didn't prepare that.
17 **THE COURT:** That was -- you-all prepared it?
18 **MR. WHITMIRE:** I believe, uh, my predecessor,
19 uh---
20 **THE COURT:** Okay.
21 **MR. WHITMIRE:** ---prepare the Motion to
22 Dismiss pursuant to---
23 **THE COURT:** And -- and you may have this;
24 this has all the facts in it. You don't have it?
25 **MR. JONES:** I've never received that.

1 **THE COURT:** You didn't?
2 **MR. WHITMIRE:** I -- I believe at that time it
3 was filed and sent. It was around the same time
4 Judge Macaulay appointed, uh, Mr. Richey on the
5 case.
6 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR
7 A CONFERENCE, OFF THE RECORD.)
8 (WHEREUPON, PROCEEDINGS CONTINUED.)
9 **THE COURT:** It's the Notice of Motion and
10 Motion to Dismiss.
11 **MR. JONES:** Oh, I'm sorry.
12 **THE COURT:** Here -- hold on, we'll make a
13 copy of it. I want you to take it back. I'll --
14 I will take this matter under advisement and look
15 through everything, see what I can find; okay?
16 I mean, that's -- that's about all I can do
17 at this point because I'll have to go back and
18 look at the schedule. What year was that?
19 **MR. JONES:** That was, uh, 1999. The law is
20 clear with that, you know -- I mean, if -- like I
21 said, if the Attorney General had 14-5-420 or
22 whatever, I mean, what was the purpose of being
23 hauled into Court? He -- he wouldn't have did an
24 Order for them to meet, uh, based on a Motion that
25 this -- the Attorney General has not brought

1 forth. And the other---

2 **THE COURT:** Well, what happens is, every
3 year, at the beginning of the year, we -- a
4 Judge -- Circuit Court Judge signs an order
5 setting the dates for, uh, the Grand Jury and you
6 set 'em for the whole year. They don't have any
7 real connection to when Court is held. I
8 understand how that misunderstanding happened.
9 Um, so just because there's not a General Sessions
10 term of Court doesn't mean that the Grand Jury
11 can't meet. In fact, the Grand Jury met yesterday
12 and we don't have General Session this week. So
13 that may be the confusion. But, I'm gonna give
14 you a copy of his Motion, because it has, I think,
15 most of the facts in it that you've stated. And
16 then I'll look at it; okay.

17 **MR. JONES:** All right. Can I ask one more
18 question?

19 **THE COURT:** Yeah.

20 **MR. JONES:** 14-5 -- I mean, 14-9-210, is it
21 repealed?

22 **THE COURT:** I have no idea to be honest. And
23 to be honest with you, I don't know. What does it
24 say.

25 **MR. JONES:** It says that, The county

1 solicitor shall prepare and, through the presiding
2 judge of the court of general sessions, submit to
3 the grand jury, while in attendance upon the court
4 of General Sessions, bills of indictment in all
5 cases pending in the county court in which the
6 punishment, may exceed a fine of one hundred
7 dollars---
8 **COURT REPORTER:** I'm sorry, Your Honor, I'm
9 not---
10 **THE COURT:** Yeah, hold on. You -- you got to
11 slow down. I -- I think that what -- no, it has
12 not been repealed. What that says is that the
13 Solicitor presents to the Grand Jury the
14 allegations that they're supposed to. But, that
15 doesn't mean that there has to be a General
16 Sessions term of Court for the Grand Jury to meet.
17 In other words, the Grand Jury can meet -- and as
18 I said, it met yesterday; we only have Civil Court
19 this week. So, that may be the confusion.
20 But, like I said, you've got a copy of this
21 and I think you'll see in here that he's put forth
22 the dates and your allegations. And I'll look at
23 'em. I mean, I'm not gonna just -- I mean, I'm
24 going to look at 'em, which is what I do on these
25 things. I take these seriously, so give me about

1 a week. It's gonna take me a week. I'm doing
2 these back to back to back. And then we'll let
3 you know something in an Order. Okay?
4 **MR. JONES:** All right; can I respond to that?
5 **THE COURT:** Yeah.
6 **MR. JONES:** Before you make your decision?
7 **THE COURT:** Yeah, ten days.
8 **MR. JONES:** Okay.
9 **THE COURT:** Okay. All right, now, uh, do you
10 need to be relieved?
11 **MR. RICHEY:** Yes, Your Honor.
12 **THE COURT:** Do you want him to be relieved as
13 your Counsel?
14 **MR. JONES:** Yes, sir.
15 **THE COURT:** All right; you're going to act as
16 your own Counsel?
17 **MR. JONES:** Yes, sir.
18 **THE COURT:** All right; I'll grant your Motion
19 to be relieved. Make sure that you send a copy of
20 that -- whatever -- whatever your response is to
21 the Attorney General and to me.
22 **MR. JONES:** All right.
23 **THE COURT:** Okay? All right; thank you, man.
24 **MR. WHITMIRE:** Your -- Your Honor, just -- I
25 would just request you take Judicial notice of,

1 uh, of Common Pleas, uh, PCR Order entered on
2 2010-CP-04-0678. I've provided, I believe, a copy
3 of it to your chambers from Judge Macaulay citing
4 *Bell v. State*, page twelve to fifteen in which he
5 squarely addresses this issue. I only ask that
6 you to do such because, due to the recent
7 proliferation of this issue within the Department
8 of Corrections, uh, just to add a little more
9 clarity.
10 **THE COURT:** Yeah; no, I will and I've got
11 everything right here. I'll look at it. But make
12 sure you respond within ten days, okay?
13 **MR. JONES:** All right; thank you.
14 **THE COURT:** Now, uh, what was your sentence?
15 **MR. JONES:** (No response.)
16 **THE COURT:** Yeah, what was your sentence?
17 **MR. JONES:** Oh, life without parole.
18 **THE COURT:** Life without parole?
19 **MR. JONES:** Yes.
20 **THE COURT:** Okay. Okay; I'll look at it.
21 **MR. JONES:** All right.
22 **THE COURT:** I won't -- I won't just throw it
23 aside.
24 (WHEREUPON, HEARING ENDED AT 10:45 A.M.)
25 *******END OF REQUESTED TRANSCRIPT*******

1 STATE OF SOUTH CAROLINA)
2) CERTIFICATE OF REPORTER
3 COUNTY OF ANDERSON)
4
5 I, THE UNDERSIGNED VIVIAN H. CROSS, OFFICIAL COURT
6 REPORTER FOR THE TENTH JUDICIAL CIRCUIT OF THE STATE OF
7 SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS
8 A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF THOSE
9 PROCEEDINGS REQUESTED AND EVIDENCE INTRODUCED IN THE
10 TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE
11 COURT OF COMMON PLEAS FOR ANDERSON COUNTY, SOUTH
12 CAROLINA, ON THE 20TH DAY OF FEBRUARY 2014.
13 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
14 COUNSEL NOR INTEREST TO ANY PARTY HERETO.
15
16
17
18
19
20
21 Vivian H. Cross
22 VIVIAN H. CROSS, COURT REPORTER
23 TENTH CIRCUIT AT LARGE
24 JUNE 12, 2017
25

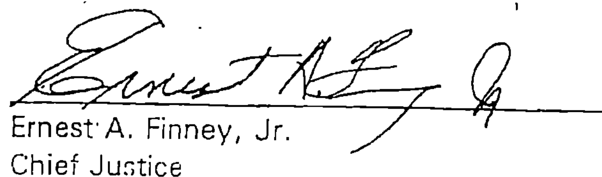
Exhibit C-1

The Supreme Court of South Carolina

ORDER

Pursuant to the provisions of S. C. CONST. art. V, Section 4, the statutory terms of circuit court set forth in §14-5-620 through §14-5-820, 1976 Code of Laws of South Carolina, as amended, for the period commencing January 4, 1999 and ending July 2, 1999, are hereby canceled.

IT IS ORDERED that the terms of circuit court for the period commencing January 4, 1999 and ending July 2, 1999, shall be as set forth on the attached schedule of terms of circuit court, which schedule is incorporated herein and made a part hereof by reference and attachment. Additional terms of court may be scheduled during this period by subsequent orders depending upon the availability of judicial resources and caseload information. Where a circuit-wide nonjury term is indicated, <u>the Chief Circuit Judge for Administrative Purposes</u> for the circuit shall designate the time and location of the term among the counties within the circuit. A term designated as a circuit wide administrative week (AW) shall also be held at such times and locations within the circuit as designated by the Chief Circuit Judge for Administrative Purposes assigned to that term.



Ernest A. Finney, Jr.
Chief Justice

December 1, 1998
Columbia, South Carolina

Exhibit

FORM 5 (12/87)

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

INDICTMENT FOR MURDER
16-03-0010[0116]

At a Court of General Sessions, convened on JANUARY 5, 1999.

the Grand Jurors of ANDERSON County present upon their oath

COUNT ONE — MURDER

That GAVIN VACHON JONES

did in ANDERSON County on or about JUNE 19, 1998.

feloniously, wilfully and with malice aforethought, kill one LARRY STANLEY

by means of SEVERE BEATING AND FRACTURING THE VICTIM'S NECK

and that the said victim died as a proximate result thereof.

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

George M. Ducworth
SOLICITOR

Exhibit C

WITNESSES

ZAMBERLIN/APD

A TRUE COPY
JUL 1 0 2002
CLERK OF COURT

ARREST WARRANT NO. F-894165

ACTION OF GRAND JURY

~~TRUE BILL~~

DATE 1-5-99

Martha H Comer

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury *Date:*

DOCKET NO. 99-GS-04-59

The State of South Carolina,

County of ANDERSON

COURT OF GENERAL SESSIONS

JANUARY **TERM** 1999

DDW

THE STATE

VS.

GAVIN VACHON JONES

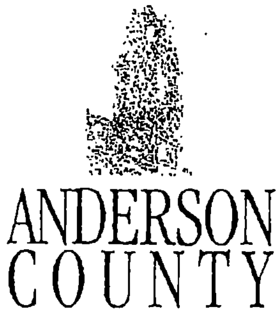
Indictment for Murder

16-03-0010[0116]

GEORGE M. DUCWORTH, SOLICITOR

Comm. 7-15-99

(Exhibit B)



Anderson County Clerk of Court
P.O. Box 8002
Anderson, SC 29622
(864) 260-4053
Fax: (864) 260-4715

September 29, 2014

Mr. Gavin V. Jones #259726
F1-A-165
386 Redemption Way
McCormick, South Carolina 29899

Re: Letter received September 29, 2014

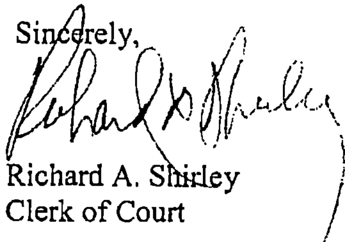
Dear Mr. Jones:

Thank you for your follow-up letter concerning the Anderson County Grand Jury. As I stated earlier, every six months, the Solicitor's Office prepares an order for the judge to sign setting the dates for the convening of the jury. **At the beginning of a new year, the first gathering is an organizational meeting where we draw names and seat the new Grand Jury according to state law.** I am enclosing a copy of the order which convened this year's Grand Jury on January 6, 2014 for this purpose.

As I stated in my previous two letters, this order is the ONLY "impanelment document" of which I am aware. My reply in regards to the Freedom of Information Act and the secrecy of the Grand Jury members and their deliberations remains the same.

As for your motion asking Judge J. Cordell Maddox to recuse himself, this motion has been clocked and placed in your file. If and/or when your Post Conviction Relief Hearing is held, I would assume this motion would be heard if Judge Maddox is assigned to preside over that hearing.

Sincerely,



Richard A. Shirley
Clerk of Court

RAS/rs
enclosure

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
COUNTY OF ANDERSON)

O R D E R

THIS MATTER comes before me upon motion of Chrissy T. Adams, Solicitor of the Tenth Judicial Circuit, requesting that the Anderson County Grand Jury convene for the next six (6) months terms of General Sessions Court for the year 2011; to dispose of a number of pending cases.

NOW THEREFORE, upon motion of Chrissy T. Adams, Solicitor of the Tenth Judicial Circuit, it is

ORDERED, ADJUDGED AND DECREED that the Anderson County Grand Jury report to the Anderson County Court Room at 9:00 A.M. on the following dates:

January 6, 2014 Organizational

January 21, 2014

February 18, 2014

March 18, 2014

April 22, 2014

May 20, 2014

June 17, 2014

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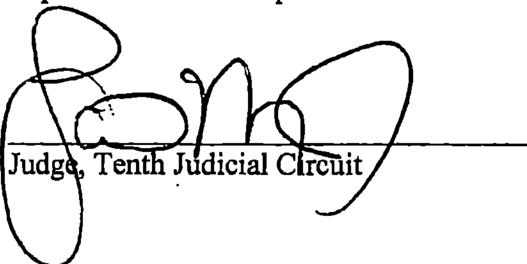
ANDERSON SC
2013 DEC -2 A 9:21
PLEAS AND
SESSIONS

to consider those matters to be presented to them by the Solicitor's Office at that time.

IT IS FURTHER ORDERED that Richard A. Shirley, Clerk of Court for Anderson County, convene the Grand Jury and publish all matters presented to the Court by the Grand Jury.



Judge, Tenth Judicial Circuit

Anderson, South Carolina
December 2, 2013

Exhibit B-1

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

IN THE COURT OF GENERAL SESSIONS

ORDER

THIS MATTER comes before me upon motion of George M. Ducworth, Solicitor of the Tenth Judicial Circuit, requesting that the Anderson County Grand Jury convene for the next six (6) months terms of General Sessions Court for the year 1999, to dispose of a number of pending cases.

NOW THEREFORE, upon motion of George M. Ducworth, Solicitor of the Tenth Judicial Circuit, it is

ORDERED, ADJUDGED AND DECREED that the Anderson County Grand Jury report to the Anderson County Court Room at 9:00 A. M. on the following dates:

January 5, 1999

January 26, 1999

February 23, 1999

April 6, 1999

May 11, 1999

June 1, 1999

to consider those matters to be presented to them by the Solicitor's Office at that time.

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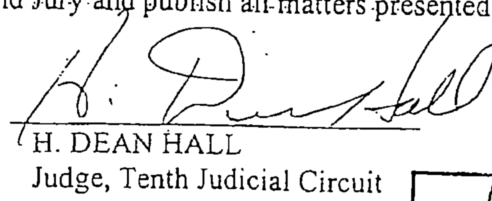
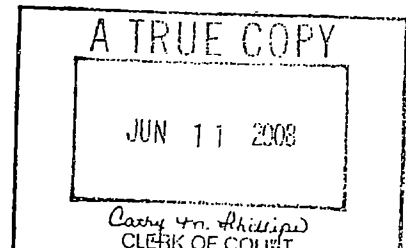
IT IS FURTHER ORDERED that Linda J. DeShields, Clerk of Court for Anderson County, convene the Grand Jury and publish all matters presented to the Court by the Grand Jury.



H. DEAN HALL
Judge, Tenth Judicial Circuit

Anderson, South Carolina
Dated: December 10, 1998



10/KO

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON) FOR THE TENTH JUDICIAL CIRCUIT

Gavin V. Jones, #259726,
Petitioner,

2012-CP-04-0861

v.

ORDER OF DISMISSAL

State of South Carolina,

Respondent.

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2018 FEB -9 PM 3:31
COMMON PLEAS AND GENERAL SESSIONS

This matter comes before the Court pursuant to a document captioned "Petition for Writ of Mandamus" and filed March 14, 2012. In its Return and Motion to Dismiss, Respondent requested that the Petition be summarily dismissed because it fails to support the requested relief. Subsequently, a motions hearing was held on February 20, 2014, before the Honorable J. Cordell Maddox, Jr. Applicant was present at the hearing and represented by Rodney W. Richey, Esquire[1]. Assistant Attorney General J. Walter Whitmire of the South Carolina Attorney General's Office represented the State.

PROCEDURAL HISTORY

The records before this Court indicate that Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Anderson County Clerk of Court. During its January 1999 term, the Anderson County Grand Jury indicted Petitioner for Murder (1999-GS-04-59). David Stoddard, Esquire, represented him. On July 12-15, 1999,

[1] At the onset of Petitioner's motions hearing, Mr. Richey informed this Court that Petitioner had moved to relieve counsel, and this Court permitted Petitioner to present his argument *pro se*. Thereafter, this Court granted Petitioner's motion to relieve his counsel.

A TRUE COPY
FEB 12 2018
CLERK OF COURT

Petitioner proceeded to trial before the Honorable H. Dean Hall and a jury, where he was convicted as indicted. Judge Hall sentenced Petitioner to a term of life imprisonment without the possibility of parole.

Petitioner filed a timely notice of appeal. Assistant Appellate Defender Tara S. Taggart of the South Carolina Office of Appellate Defense represented Petitioner and perfected an *Anders*[2] brief on his behalf. Thereafter, the South Carolina Court of Appeals dismissed the appeal. *State v. Jones*, Op. No. 2001-UP-55 (S.C. Ct. App. Filed July 11, 2001). Thereafter, Petitioner filed a Petition for Rehearing, which was denied on August 23, 2001. Subsequently, Petitioner filed a *pro se* Petition for Writ of Certiorari in the Supreme Court of South Carolina, which was denied on January 24, 2002.

2002-CP-04-1817

Petitioner then filed an application for post-conviction relief on July 6, 2002. In his application, Petitioner set forth the following allegations:

1. Counsel was ineffective for presenting and failing to object to evidence of the Applicant's use of drugs;
2. Counsel was ineffective for failing to present evidence that the crime was committed by someone else; and
3. Ineffective assistance of appellate counsel.

Thereafter, Petitioner filed a *pro se* document entitled "Applicant's Additional Supplemental to Original Post-Conviction Relief Application" on August 6, 2002. In this amended application, Petitioner raised the following allegations:

1. Counsel was ineffective for failing to properly and thoroughly impeach State witnesses Joshua Stewart and Shirley Rainey with their out-of-court statements;

[2] *Anders v. California*, 386 U.S. 738 (1967).

2. Counsel was ineffective for failing to object to the trial court's circumstantial evidence instruction to the jury;
3. Counsel was ineffective for failing to object to the Solicitor's improper hypothetical questions to the medical examiner;
4. Counsel was ineffective for failing to present favorable witnesses and evidence in the Applicant's defense;
5. Counsel was ineffective for failing to object to the admission of irrelevant evidence;
6. Counsel was ineffective for failing to adequately cross-examine State witnesses; and
7. Appellate counsel was ineffective for failing to raise in a merits brief that the trial court erred in allowing the State to bolster testimony of Jackie Sanders with her consistent out-of-court statement.

Petitioner again amended his application in a document captioned "Applicant's Supplement to Original Post-Conviction Relief Application" on September 13, 2002. In this amendment, he raised the following additional ground for relief:

1. Because the Solicitor failed to comply with the procedures that are laid down by the courts, the trial court did not have jurisdiction to entertain the Applicant's case and convict him.

Respondent made its Return on June 9, 2004, requesting an evidentiary hearing be held. An evidentiary hearing into the matter was convened on December 15, 2004, at the Anderson County Courthouse. Petitioner was present at the hearing and proceeded *pro se*. Assistant Attorney General Christopher L. Newton of the South Carolina Attorney General's Office represented Respondent. By Order dated February 9, 2005, the Honorable J. Cordell Maddox, Jr., denied and dismissed the application with prejudice. Thereafter, Petitioner filed a Motion to Alter or Amend pursuant to Rule 59(e), SCRCP, which Judge Maddox denied on March 5, 2005.

Petitioner filed a timely notice of appeal. Assistant Appellate Defender Aileen P. Clare of the South Carolina Office of Appellate Defense represented Petitioner and perfected an appeal on his

behalf. On November 16, 2005, the Supreme Court of South Carolina denied Petitioner's Petition for Writ of Certiorari. The Remittitur was issued on December 2, 2005.

Thereafter, Petitioner filed a *pro se* document in the Circuit Court entitled "Motion for New Trial Based on After Discovered Evidence of Unconstitutional Grand Jury Proceedings" on November 5, 2008. On October 7, 2009, Judge Maddox denied Petitioner's Motion for New Trial and again dismissed Petitioner's post-conviction relief action.

Petitioner appealed from this Order on October 9, 2009, and filed a *pro se* Petition for Writ of Certiorari on February 16, 2010. By Order dated May 13, 2011, the Supreme Court of South Carolina denied Petitioner's Petition for Writ of Certiorari. The Remittitur was issued on June 1, 2011.

3:06-788-TLW-JRM

Petitioner filed a Petition for Writ of Habeas Corpus on March 24, 2006, in the United States District Court for the District of South Carolina. In his Petition, Petitioner alleged the following grounds:

Ground One:	Lower Court erred in failing to grant a directed verdict were [sic] evidence was constitutionally insufficient.
Supporting Facts:	States case was wholly circumstantial, there was no DNA, no forensics, no eyewitness, no fingerprints to place Petitioner at the scene. Coroner did nothing scientific to determine time of death thus giving the State a 6 hr window. State used testimony Petitioner had money days after crime to say he robbed the victim.
Ground Two:	Counsel was constitutionally ineffective for failing to bring fourth [sic] evidence of third party guilt.
Supporting Facts:	Counsel admitted during PCR that he only perused the evidence concerning third party guilt the day before trial. Sam Mackey committed murder and a suicide after he was asked [if] he killed the victim. Sam Mackey's nephew gave

	Statement that Mackey said it was a hit and he was paid . . . to kill victim.
Ground Three:	Counsel was constitutionally ineffective for failing to ask for an alibi charge.
Supporting Facts:	Before trial counsel sent a notice of alibi to the State no State witness place Petitioner at the scene during the time period victim was killed. Counsel's defense was to show his client was not at the scene and Petitioner told counel [sic] from the beginning as counsel . . . at PCR that I was innocent and wasn't there.
Ground Four:	Counsel was constitutionally ineffective for not pointing out to jury that unseemingly [sic] stain was not blood.
Supporting Facts:	All of Petitioner['s] clothing was tested by SLED lab and his shirt the State reported no blood identified. However the shirt had two stains that appeared to have dried blood circled with a permanent marker this shirt went back to the jury. Detective testified when he 1st received shirt there were no stains on shirt.

On June 15, 2006, Respondent filed a Return and Motion for Summary Judgment. By Order dated March 23, 2007, the District Court granted Respondent's Motion for Summary Judgment and dismissed the Petition with prejudice.

On April 26, 2007, Petitioner filed a Notice of Appeal and Request for Certificate of Appealability to the United States Court of Appeals for the Fourth Circuit. The United States Court of Appeals for the Fourth Circuit subsequently denied the certificate of appealability and dismissed the appeal on July 31, 2007. Petitioner subsequently petitioned for rehearing *en banc*, which was denied on September 24, 2007.

In his current Petition, Petitioner argues "The State Tried and Convicted the Petitioner for an Unindicted Murder Offense." Petitioner contends the indictment charging him with murder, dated January 5, 1999, is in direct violation of an Order from the South Carolina Supreme Court cancelling the Anderson County General Sessions Court for that day.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A mandamus will issue only to compel a public official to perform a mandatory duty. *State v. Ansel*, 76 S.C. 395, 414, 57 S.E. 185 (1907); *Lombard Iron Works v. Town of Allendale*, 187 S.C. 89, 196 S.E. 513 (1938). The primary purpose of a writ of mandamus is to enforce an established right and to enforce a corresponding imperative duty created or imposed by law. *Charleston County School District v. Charleston County Election Commission*, 336 S.C. 174, 519 S.E.2d 567 (1999). It is issued "only to **enforce** a clear legal right requiring the performance of only ministerial duties." Toal, et al, *Appellate Practice in South Carolina*, p. 281 (1999) (citing *Wiblen v. Long*, 262 S.C. 430, 205 S.E.2d 174 (1974)) (emphasis added). To obtain a writ of mandamus requiring performance of an act, a petitioner must show: (1) the opposing party has an indisputable and plainly defined duty to perform the act, (2) the ministerial nature of the act, (3) the opposing party's specific legal right for which discharge of the duty is necessary, and (4) the lack of other legal remedy. *Id.* at 282. The writ of mandamus lies solely within the discretion of the court of which it is requested. *In Interest of Lyde*, 284 S.C. 419, 327 S.E.2d 70 (1985). Moreover, mandamus is unavailable where the legal right is doubtful. *Id.*

In his Petition, Petitioner asserts he has satisfied the requirements for issuance of a writ of mandamus because:

> (1) S.C. Code § 14-9-210 imposes a duty upon all SC Solicitors to submit a bill of indictment to the grand jury (while it is in attendance upon general sessions court § 14-9-170) for prosecution of a criminal case; (2) the S.C. Constitution, Art. I, § 11, mandates that an indictment is a prerequisite for all criminal prosecution; (3) the petitioner has a constitutional right to be prosecuted upon a presentment of indictment returned by a grand jury; and (4) the petitioner has exhausted his direct appeal, PCR, and habeas corpus remedies and has no other available remedy except a writ of mandamus.

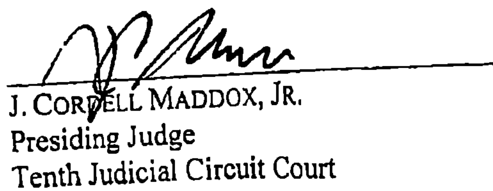
Petitioner contends because the South Carolina Supreme Court issued an Order cancelling the General Sessions term of court for January 5, 1999, the Grand Jury could not have legally met and, therefore, could not have obtained an indictment against him. Indictments are not jurisdictional in nature but are merely notice documents. *State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005). When judging the sufficiency of an indictment, the court must determine "whether (1) the offense is stated with sufficient certainty and particularity to enable the court to know what judgment to pronounce, and the defendant to know what he is called upon to answer and whether he may plead an acquittal or conviction thereon; and (2) whether it apprises the defendant of the elements of the offense that is intended to be charged." *Id.* at 102-03, 610 S.E.2d at 500 (citing *State v. Wilkes*, 353 S.C. 462, 578 S.E.2d 717 (2003)). "An indictment passes legal muster if it 'charges the crime substantially in the language of the . . . statute prohibiting the crime or so plainly that the nature of the offense charged may be easily understood.'" *State v. Reddick*, 348 S.C. 631, 635, 560S.E.2d 441, 443 (Ct. App. 2002) (quoting S.C. Code Ann. § 17-19-20 (1985)). Moreover, "whether the indictment could be more definite or certain is irrelevant." *Id.* at 103, 610 S.E.2d at 500.

Here, Petitioner wholly fails to set forth any reason as to why his indictment for murder was insufficient in providing him with notice that he was, in fact, charged with murder. The indictment clearly sets forth the date upon which the murder occurred, the victim, and the manner in which the crime was committed. Furthermore, the indictment uses the very language used in the statute defining the crime of murder. *See* S.C. Code Ann. § 16-3-10 (1976). In addition, Petitioner's contention that the indictment is invalid is wholly without merit. This Court noted during the hearing that there is no requirement that a term of

General Sessions Court be convened for the Grand Jury to meet. This Court finds the indictment was sufficient to give Petitioner notice; and, therefore, he cannot show any reason why this Court should allow him to proceed with this extraordinary writ.

IT IS THEREFORE ORDERED that the Petition be DENIED AND DISMISSED. This Court hereby advises Petitioner that he must file and serve a Notice of Appeal within thirty (30) days of the service of this Order to secure appellate review. *See* Rule 203, SCACR.

AND IT IS SO ORDERED this 6th day of February, 20__.



J. CORDELL MADDOX, JR.
Presiding Judge
Tenth Judicial Circuit Court

______________, South Carolina.

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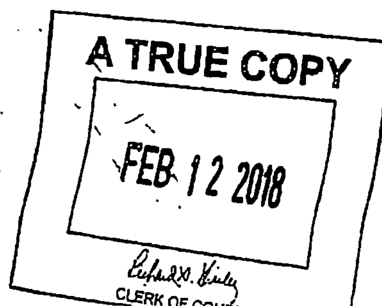
COMMON PLEAS AND
GENERAL SESSIONS



STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

Gavin V. Jones, #259726
Petitioner,

v.

State of South Carolina
Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT

2012-CP-04-0861

MOTION TO ALTER AND AMEND JUDGMENT RULE 59(E)

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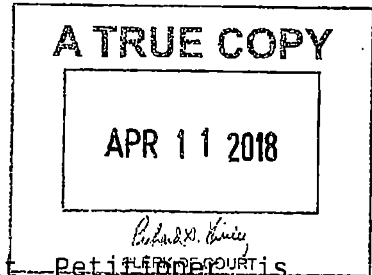
ANDERSON SC
2018 APR 11 PM 2:09
COMMON PLEAS AND

This matter comes before the Court pursuant to a "Petition for Writ of Mandamus" filed March 14, 2012. In its Return and Motion to Dismiss, Respondent requested that the Petition be summarily dismissed because it fails to support the requested relief. Subsequently, a motions hearing was held on February 20, 2014, before the Honorable J. Cordell Maddox, Jr. Applicant was present at the hearing and represented by Rodney W. Richey, Esquire. Attorney General J. Walter Whitmire of the South Carolina Attorney General's Office represented the State. On February 6, 2018, Judge Cordell Maddox Jr. signed a order of Dismissal proposed by the State, On February 21, 2018 Petitioner received the order of Dismissal from the Attorney Generals office. Petitioner has now filed this **Motion to Alter and Amend Judgment** for there are very important Facts and law that has been over looked, as well as the State never addressed amended portion of Mandamus filed 2013.



PROCEDURAL HISTORY

The records before this Court indicate that Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Anderson County Clerk of Court. During its January 1999 term, the Anderson County Grand Jury indicted Petitioner for Murder (1999-GS-04-59). David Stoddard,

Esquire, represented him. On July 12-15, 1999, Petitioner proceeded to trial before the Honorable H. Dean Hall and a jury, where he was convicted as indicted. Judge Hall sentenced Petitioner to a term of life imprisonment without the possibility of parole.

Petitioner filed a timely notice of appeal. Appellate Defender Tara S. Taggart of the South Carolina Office of Appellate Defense represented Petitioner and perfected an *Anders* brief on his behalf. Thereafter, the South Carolina Court of Appeals dismissed the appeal. *State vs. Jones*, Op. No. 2001-UP-55 (S.C. Ct. App. Filed July 11, 2001). Thereafter, Petitioner filed a Petition for Rehearing, which was denied on August 23, 2001. Subsequently, Petitioner filed a pro se Petition for Writ of Certiorari in the Supreme Court of South Carolina, which was denied on January 24, 2002.

STANDARD OF REVIEW

To obtain a Writ of Mandamus requiring performance of an act, a petitioner must show:

> *(1). The opposing party has an indisputable and plainly defined duty to perform the act.. the Solicitor in the present case had a Lawful duty to provide Mr. Jones with a Lawfully obtained Indictment.*
> *(2). The ministerial nature of the act:*
> *Solicitors and Court clerks have The "ministerial duty" to ensure that Exparte Grand jury Indictment proceedings are convened and conducted in strict conformity of law.*
> *(3). The opposing party's specific legal right for which discharge of duty is necessary: Petitioner had a 14 Amendment Due process right to be provided with a indictment from a legally Constituted Grand jury.*
> *(4). A lack of any other legal remedy: Petitioner had no other legal avenue to pursue this issue, for there is no remedy to pursue this type of violation. Id.* @ Appellate practice in South Carolina p. 281 (1999) (citing Wiblen v. Long, 205 S.E.2d 174 (1974).

What the State has over looked is a violation of this magnitude strikes at the heart of the Integrity of South Carolina Court System.

This violation branches off and crosses way over the line with what is considered lawful for a agency of the judicial system who job is to uphold the constitutional laws and Statutory laws as well as rules of criminal procedure in the state of South Carolina. The very act of knowingly using a indictment that was not lawfully obtained embraces criminal conduct in and of itself, such as Fraud upon the court and Perjury and Subornation of Perjury 16-9-10 A-2 of the South Carolina Code of laws.

ARGUMENT

A. Jones asserts and argues, inter alia that although subject matter contained in the charging instrument upon which he was tried and convicted appears to be correct, he was nevertheless tried and convicted without a **PROPER** and/or lawfully **VALID** INDICTMENT, in violation of his right to due process of law pursuant to U.S Const. Amend(s) V & XIV., 1 AND S.C Const., **{fn.1}** That is to say, Jones was tried and convicted with an indictment, consequently void of power; a nullity, and technically, non-existent in violation of S.C.C.A., 17-19-10 INFRA. SEE: State v Funderburk, 259 S.c 256 191 S.E.2d 520 (1972) (Where the defendant was tried and convicted upon a indictment which was a nullity, it follows that he was convicted in violation of this section.)

Moreover, Jones asserts and argues, that the indictment returned January 5, 1999 by the Anderson County Grand Jury, upon which he stands convicted, first of all, was **not "lawfully issued" as defined by statutory criminal law**. And secondly, the **Ex Parte procedure** upon which said indictment was obtained **was fraudulent**, and had by **"Sham Legal Process"** as defined by the same criminal statue, S.C.C.A. 16-17-735, ET SEQ, consequently, in violation of additional procedure/criminal statues as will be shown, infra. S.C.C.A., 16-17-735 states in pertinent part:

(B) It is unlawful for a person falsely to assert authority of state law in connection with a sham legal process. A person violating the provision of this subsection is guilty of a misdemeanor.

(E)(3) "For purposes of this section: ***Sham legal Process*** *means the* ***ISSUANCE,*** *Display,* ***DELIVERY,*** *distribution,* ***RELIANCE*** *on as lawful authority, or other use of an* ***INSTRUMENT*** *that is NOT LAWFULLY ISSUED, whether ort not the instrument is produced for inspection or actually, exists, which purports to:*

(b) assert ***JURISDICTION*** *or* ***AUTHORITY OVER*** *or determine or* ***ADJUDICATE THE LEGAL, EQUITABLE STATUS****, rights, duties, powers or privileges* ***OF A PERSON*** *or property; or*

(c) require or authorize the search seizure, ***INDICTMENT****, arrest, trial, or sentencing of a person pr property. (Emphasis added)*

Facts stated above and other violation of law, which will be proven herein, in all fairness, would render Jones indictment fatally defective or a nullity altogether! **See Evans v. State,** 363 S.C. 495 611 S.E 2d 510 (2005)".. {A}n indictment or "notice document" issued by a grand jury which is established or constituted illegally is deemed a nullity. An indictment, which is a nullity, would be insufficient as a matter of law, to give the required notice to a defendant.

B. It is fundamentally and well established that citizen accused of felonious, of an otherwise infamous crimes, may only be tried upon indictments returned ["True Billed"] by a grand jury. Essentially, this mandate originates from the U.S. and S.C. Constitutions, and state statute, S.C.C.A. 17-19-10, which states:

No person shall be held to answer in any court for an alleged crime or offense unless upon indictment by a grand jury, except in the following cases:

(1). Prosecution by information is expressly authorized by statute;
(2). In proceedings before a police court or magistrate; and
(3). In proceedings before court martial.

Logically therefore, it stands to reason that any such indictment(s), in order to be valid, must be obtained through **LAWFUL PROCESS.** In other words, without a **PROPERLY** obtained indictment, the

court– this case, the Court of General Sessions – is deprived the power to try the accused; it simply does not have, '**in personam** jurisdiction', as distinguished from '**subject matter** jurisdiction', **See, U.S. Const., Amend V S.C. Const., Art. I 11..** {Fn.2}

Published for our leaning and understanding, is black's Law Dictionary, in which, are defined several types of jurisdiction as follows:

> ***Jurisdiction***-- *1. A governments general power to exercise authority.. 2. A courts*
> *Power to decide a case*
> ***In Personam Jurisdiction***-- *A courts power to bring a person into its adjudicative*
> *process;* ***jurisdiction over a defendants personal rights****; and*
> ***Subject Matter Jurisdiction***-- *Jurisdiction* ***over the nature*** *of the case and the type*
> *Of relief sought. (emphasis added)*

[T]he burden is on the defendant too prove facts upon which a challenge to the legality of the grand jury **or its proceedings** is predicated. E.G **State v. Jackson,** 240 S.C. 238, 243, 125 S.E 2d 474, 477 (1962). **EVANS V. STATE, 363 S.C. 495, 611 S.E. 2d 510 (2005).**

Now therefore., Jones would carry his burden in proving the facts supporting his challenge and the distinct jurisdictional differences to which one may argue and make reference.. **See State v Funderburk, 191 S.E. 2d** 520 (1972)

In the Amendment filed by petitioner in 2013 to this Mandamus; Petitioner contends that the Anderson Solicitor had a ministerial duty to provide Petitioner any documents pertaining to any irregular process in the indictment procedure. Also petitioner requested a hearing to determine whether the Court which tried him could use a void instrument to convey any jurisdiction over him in a Court of law. **Anderson v. State, 527 S.E.2d 398 (SC App 2000)** Subject Matter Jurisdiction, may be raised at anytime if it deals with ill regularities in how the document was presented. If the Laws of procedure is not followed in obtaining a indictment it becomes a void instrument and can not convey jurisdiction of **any** kind over **any** citizens. **Gentry** is not applicable when dealing with a indictment if

it was not lawfully presented. **Gentry** deals with the Substance of a indictment not the presentment.

DISCUSSION ON FACTS & LAW

I. Fraud Upon the Court

A. For reasons of jurisprudence and fairness in keeping with due process protections, the ordained policy makers of our court system recognized matters pertaining to fraud upon the courts of this state. Exercising their keen foresight, they saw fit by the S.C. Rules of Civil Procedure (SCRCP) to create and implement provisions to set-aside and/or vacate judgments due to fraud upon the court. **[fn.3]**

In general, extrinsic fraud upon the court can be defined as "... [A] fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner, it's impartial task of adjudging cases that are presented for adjudication." See Evans v. Gunter, 294 S.C. 525, 529, 366 S.E.2d 44, 46 (1988) (Quoting H. Lightwey, J. Flanagan, S.C. Civil Procedure, 408 (2nd Ed. 1985))

B. Solicitor Duckworth was able to perpetrate "extrinsic" fraud upon the court in two ways: First, by giving the ex parte grand jury process an appearance of being legally and properly conducted; and secondly, the false indictment information operated in such a manner as to improperly mislead Jones and the trial court wherein the criminal matter was ultimately heard, causing both to falsely believe that the ex parte grand jury process whereby the indictment was obtained, was conducted and supervised by the proper court, in compliance with statutory law when it was not. Consequently, this unlawful action deprived Jones the opportunity to make an informed, contemporaneous objection as required by S.C. Code of Law, SS 17-19-90 **[fn.4]** because there were no apparent defects in the indictment or the proceeding. See State v. Richardson, 149 S.C. 121, 146, S.E. 676

(1928) "This section applies only where the defect appears on the face of the indictment."

C. In fact, because grand jury proceedings, wherein jurors receive and deliberate probable cause evidence and process indictments, are secretly held as ex parte hearings, the very reliance of those proceedings to be held in a lawful and ethical manner can only be presumed. Neither defendant nor his attorney are allowed ni attendance to ensure this, and therefore, are not made privy to what goes on within. Accordingly, this type of "extrinsic" fruad causes further harm to Jones and the integrity of our judicial process because it is conducted behind the scenes, quite possibly without a presiding judge, which would obviously allow the Solicitor unchecked influence over grand jurors.

II. Sham Legal Process

A. It must first be noted that the "True Bill" indictment returned against Jones charging him with murder within its body, prints in pertinent part that:

> *"At a Court of General Sessions, convened on January 5, 1999, the Grand Jurors of Anderson County present upon their oath..."*

The body of the grand jury's sworn presentment also bears the signature of the Anderson County Solicitor, Duckworth Duckworth. Moreover, a "True Bill" stamp is affixed to the face, [title page] of the indictment bearing the signature of the grand jury foreman. See Exhibits ____A____ (Indictment)

Secondly, the statutory and/or court sanctioned calendar schedule for the Tenth Judicial Circuit terms, published by the S.C. Supreme Court / Administration, irrefutably demonstrates that **NO** Court of General Sessions had been scheduled or open on January 5, 1999 as printed in Jones' indictment. (Cf. Exhibits ____B____ with ____C____ (Court Order & Calendar with Indictment))

Therefore, prima facie evidence shown therein conclusively proves that, contrary to the information printed by Solicitor Duckworth in Jones' indictment, the Anderson County Grand Jury **DID NOT** convene at a Court of General Sessions, in violation of procedural, statutory law because none were open on January 5, 1999. S.C. Code of Law, SS 14-9-210 states in pertinent part:

> *"The county* ***solicitor shall*** *prepare and, through the* ***presiding*** *judge of the court of general sessions, submit to the grand jury,* ***while in attendance upon the court of general sessions,*** *bills of indictment in all cases pending in the county court in which the punishment may exceed a fine or one hundred dollars or imprisonment for thirty days.... The grand jury shall act thereon and report its actions to the presiding judge of the court of general sessions.... All cases in which bills of indictment are so found shall stand for trial...."*

Demonstrated therefore, is the fact that false information is contained within the State's sworn indictment returned against Jones not only in violation of statutory laws such as S.C. Code of Law, SS 16-17-735 & 16-9-10, "Sham Legal Process" and "Perjury", but also, in violation of Jones due process rights protected by the U.S. and S.C. Constitutions. **[fn.1]**

B. Further noted, is the fact, that pursuant to S.C. Code of Law, SS 14-9-210, supra, Ms. White acting on behalf of the elected county solicitor, Mr. George Duckworth, was the one, responsible for the preparation, processing, and presentment of Jones' indictment to the grand jury at a qualified Court of General Sessions. Presumably, it is this ex parte proceeding whereby criminal jurisdiction is legally established, and therefore, concomitant with the trial court to which Jones was bound over. "The jurisdiction of a grand jury is **co-extensive** with the criminal jurisdiction of the court in which it is impaneled and for which it is to make inquiry." Id. Funderburk, supra.

The facts, therefore, are clear and cannot be disputed; false court term information is contained in Jones' state/federal required indictment, which was knowingly presented somewhere other than a Court

of General Sessions as required by law. Solicitor Duckworth, knowingly perpetrated these acts possibly in collusion with the clerk's office, whose responsibility it is to **PROPERLY** convene ex parte grand jury proceedings.

C. This illegally obtained indictment was then transferred to the trial court, supposedly conferring jurisdiction to it. But instead thereof, it rendered both, the ex parte grand jury proceeding and the criminal court whereupon the matter was tried, as "sham legal process" by acting on the illegally obtained indictment, again, in violation of S.C. Code of Law, SS 16-17-735, supra. "[T]he court must strike down the indictment when a defendant demonstrates the grand jury which indictment him is a nullity...." Evans, supra.

Finally, where ever, and by whatever means, the grand jurors did convene with Solicitor Duckworth for process, presentment, and issuance of Jones' indictment as "True Bill", it was an illegal assembly as a matter of law, pursuant to S.C. Code of Law, SS 14-9-210. And as such, the indictment itself **WAS NOT** A "lawfully issued", state required indictment, causing the document itself to become a nullity, pursuant to S.C. Code of Law, SS 16-17-735(E)(4), which states:

> ***(E)(4)*** *Lawfully issued" means adopted,* ***ISSUED*** *or rendered* ***IN ACCORDANCE*** *with the applicable statutes, rules, regulations, and ordinances of the United States,* ***a state****, an agency, or a political subdivision of a state.*

III. Perjury and Subornation

A. Jones asserts and argues that facts and evidence presented herein demonstrate, that by subscribing his name to Jones' State indictment, Solicitor Duckworth violated his oath of office, committing perjury, because he signed the indictment used to convict Jones knowing it contained false court term information and was obtained by an unlawful process.

B. Furthermore, Solicitor Duckworth, consequently, committed subornation of perjury, in that he caused grand jurors to present upon their oath the same false court term information contained within Jones' indictment; unwittingly participating in the sham legal process from which the indictment was obtained.

By his conduct, a prima facie case is shown against Solicitor Duckworth in violating a criminal statute, to suborn the Anderson County grand jurors to unwittingly commit perjury, S.C. Code of Law, SS 16-9-10, "Perjury Against Public Justice". **[fn.5]** Importantly, our Supreme Court in Chewning, infra, held that, "[T]he subornation of perjury by an attorney and/or the intentional concealment of documents by an attorney are actions which constitute extrinsic fraud." Chewning v. Ford Motor Co., 354 S.C. 72, 579 S.E.2d 605 (2003). Accordingly, Jones has demonstrated further harm done to his case and the judicial process thereupon.

IV. Prosecutorial Misconduct

A. Fundamentally, it should be understood that Solicitor Duckworth, while acting on behalf of the People, was required to know and abide by the laws and rules of this State, having special responsibilities to see that justice was done, pursuant to SCACR, Rule 407 Rules of Professional Conduct, Rule 3.8 (comments). "... he [prosecutor] must see that no conviction takes place except in strict conformity with the law, and that the accused is not deprived of any constitutional right or privilege." (insert in original) State v. King, 222 S.C. 108, 71 S.E.2d 798 (1952); see also State v. Quattlebaum, 338 S.C. 441, 527 S.E.2d 105 (2000); and State v. Durden, 264 S.C. 86, 212 S.E.2d 581 (1975).

Obviously, Solicitor Duckworth knew he was participating in an ex parte grand jury proceeding which was not being held at a Court of General Sessions in accordance with law, and in violation of several other state procedural and criminal statutes. Consequently, his behavior must be viewed as "willful" and "deliberate". Therefore, his actions were indicative of gross misconduct, which contributed to

Jones being deprived fair and impartial criminal judicial proceedings, beginning with this critical stage of the adversarial process. SCACR, Rule 407, Rules 8.4(b) & (d) state:

> **Rule 8.4** - It is professional misconduct for a lawyer to:
>
> **(b)** commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;
>
> **(d)** engage in dishonesty, fraud, deceit, or misrepresentation;

B. It may further be shown that similar problems have existed in both the recent and distant past regarding questionable and/or unlawful ex parte grand jury indictment proceedings. This has not been a new or unique problem. For example, the Solicitors' offices in Spartanburg and Greenville counties or South Carolina have been under investigation and shown in the news regarding their "assembly-line style" practice of processing indictments, wherein, only a few scant seconds were allowed to review and/or consider evidence before returning indictments as "True Bill". In fact, these proceedings have even been referred to as "rubber stamp" sessions. (See Exhibits ______D______)

Further noteworthy is the fact, that in Kentucky, whose statutory laws governing ex parte grand jury proceedings are very similar to ours here in South Carolina, their courts have experienced the very same problems of grand juries being convened unlawfully and in violation of statutory terms of court. "An indictment returned by grand jury when no court was in session was void." See, U.S.C.A., Const. Amend. 14, Ss 1; and "Failure of defendant to move to have indictment set aside, because returned when no court was in session, was immaterial, since the indictment being void, there could be no waiver." Beach v. Lady, 262 S.W.2d 837 (Ky. 1953).

CONCLUSION

In the Order of Dismissal, the State has demonstrated nothing that shows that laws and rules governing presentment of a lawful indictment were followed.

On the contrary, Jones has presented attachments and law that clearly show that the indictment used in the present case is no better than a blank sheet of paper.

In South Carolina, there is **NO** jurisdiction that may be obtained with a blank sheet of paper. A void indictment is no better than a blank sheet of paper. The 14 Amendment, due process clause, protects Jones from being indicted with a void document. Jones was entitled to be brought to trial with a lawfully obtained indictment. Solicitor George Duckworth had a ministerial duty to see that the indictment used in this case was lawfully presented. The State has failed to show how a document in which statutory law has been ignored, that has false information printed on it, is lawful. The petitioner in this case was brought to trial illegally, because the document used in this case was a void document.

For the State to use the defense that the "Court noted during the hearing that there is no requirement that a term of General Sessions Court be convened for the Grand Jury to meet;" is a misrepresentation of fact and law; 14-9-210 has not been repealed. In as much the Grand Jury gave an oath that they convened at a Court of General Sessions, January 5, 1999.

"No local rule of court, administration order, policy, or other procedure can take precedent over statutory law, which is always controlling. See, S.C. Constitution Article I, Section 14 and State v. Cottingham, 77 S.E.2d 897, 224 S.C. 181 (1953) (Statute overrides rules of court in in conflict.); State v. Duncan, 264 S.E.2d 421 (S.C. 1980) (Circuit Court rule promulgated by individual and void).

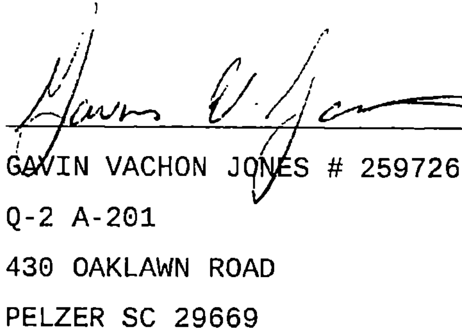
In so far the issue of whether or not a local rule, order, policy, or procedure was utilized for process and return of Mr. Jones' indictment is irrelevant because by State law, it would still have to be in agreement with provisions of section 14-9-210 for it to be constitutional, as well as provisions of sections 14-9-90, 14-5-210,

14-5-910, and 14-5-920. Moreover, Article V, Section 4 of our Constitution provides in pertinent part:

> "The Supreme Court shall make rules governing the administration of all courts of this State. **SUBJECT TO THE STATUTORY LAW** the Supreme Court shall make rules governing the practice and procedures in all such courts." (Emphasis added)

Truly it would be a gross miscarriage of justice for the Court to arbitrarily ignore all the evidence that has been brought to light that clearly show that the Indictment procedure in this case was wholly flawed. It is to say, that it is okay to print false information on document (**indictment**) required by the Laws of this state. The Statutory Laws are safe guards that protect citizens; it keeps the powers that be honest. When statutory laws are ignored, lines are blurred and conspiracies develop to cover misconduct that put Integrity in the back seat. It would seem that the State has conveniently over looked the Amendment filed 2013 to the Mandamus in which petitioner clarifies that because the Indictment is clearly against statutory laws, the Solicitor has a ministerial duty to provide any information that would justify the false information printed on his indictment

THEREFORE, based upon the demonstration of facts and law shown and argued herein, the State's Order of Dismissal should be overturned and Jones' Petition for Writ of Mandamus should be granted with relief sought.



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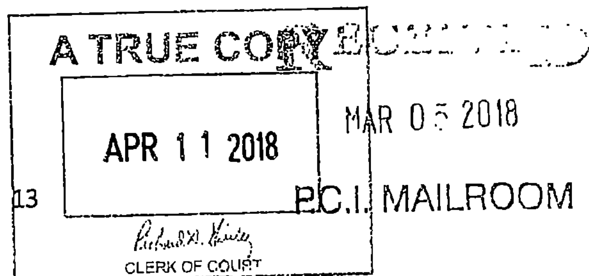
CC; ATTORNEY GENERAL
LEGAL ADVISORS



STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2012-CP-04-0861

Gavin Jones,

Plaintiff,

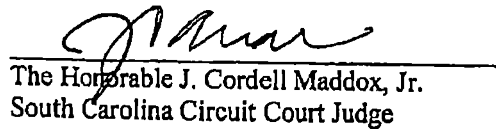
vs.

State of South Carolina,

Defendants.

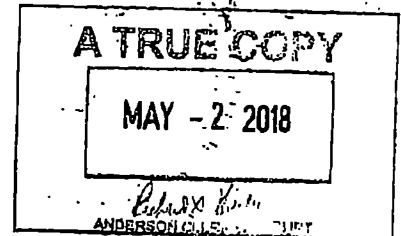
ORDER DENYING PLAINTIFF GAVIN JONES' MOTION TO ALTER AND AMEND

This matter comes before the Court on Plaintiff Gavin Jones's Motion to Alter or Amend pursuant to Rule 59(e), South Carolina Rules of Civil Procedure. This Motion for Reconsideration is hereby denied.



The Honorable J. Cordell Maddox, Jr.
South Carolina Circuit Court Judge

This 26 day of April 2018



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SOUTH CAROLINA CODE OF LAWS ANNOTATED BY LEXISNEXIS(R)

*** THIS DOCUMENT IS CURRENT THROUGH THE 2007 REGULAR SESSION ***
*** THE MOST CURRENT ANNOTATION IS DATED DECEMBER 15 2008 ***

TITLE 14 COURTS
CHAPTER 9 COUNTY COURTS

S C Code Ann § **14-9-210** (2007)

§ **14-9-210.** Indictments for county court cases by grand jury of court of general sessions

The county solicitor shall prepare and, through the presiding judge of the court of general sessions, submit to the grand jury, while in attendance upon the court of general sessions, bills of indictment in all cases pending in the county court in which the punishment may exceed a fine of one hundred dollars or imprisonment for thirty days, when such cases have not been previously acted on by the grand jury. The grand jury shall act thereon and report its action to the presiding judge of the court of general sessions and said judge shall direct the clerk of the court of general sessions to report the same to the presiding judge of the county court at its next ensuing term. All cases in which bills of indictment are so found shall stand for trial by the county court as though found by the grand jury while in attendance upon the county court.

History:

1962 Code § 15-621, 1952 Code § 15-621, 1942 Code § 89, 1932 Code § 89; Civ P 22 § 86, Civ C. '12 § 3861, Civ. C. '02 § 2764, 1900 (23) 322.

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LexisNexis (R) Notes:

Case Notes:

1. Defendant who successfully appealed two municipal court charges failed to prove that her conviction in general sessions court of pointing a weapon, a violation of [illegible] stemming from the same conduct as the municipal court charges, was vindictive prosecution in violation of her [illegible] and [illegible] due process rights, because under [illegible] it is the solicitor's duty to prosecute criminal charges, including procurement of the proper indictment from the grand jury; the pointing offense had been charged at the same time as the municipal court offenses, and in directly indicting defendant for assault with intent to kill, the solicitor had been unaware of the disposition of the municipal court charges.

[illegible]

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
COUNTY OF ANDERSON) ORDER

THIS MATTER comes before me upon motion of Chrissy T. Adams, Solicitor of the Tenth Judicial Circuit, requesting that the Anderson County Grand Jury convene for the next six (6) months terms of General Sessions Court for the year 2011, to dispose of a number of pending cases.

NOW THEREFORE, upon motion of Chrissy T. Adams, Solicitor of the Tenth Judicial Circuit, it is

ORDERED, ADJUDGED AND DECREED that the Anderson County Grand Jury report to the Anderson County Court Room at 9:00 A.M. on the following dates:

January 6, 2014 Organizational

January 21, 2014

February 18, 2014

March 18, 2014

April 22, 2014

May 20, 2014

June 17, 2014

to consider those matters to be presented to them by the Solicitor's Office at that time.

IT IS FURTHER ORDERED that Richard A. Shirley, Clerk of Court for Anderson County, convene the Grand Jury and publish all matters presented to the Court by the Grand Jury.

Judge, Tenth Judicial Circuit

Anderson, South Carolina
December 2, 2013

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Exh. D

Grand jury pace draws criticism

Panel typically weighs 900 indictments per day; questions raised over its effectiveness

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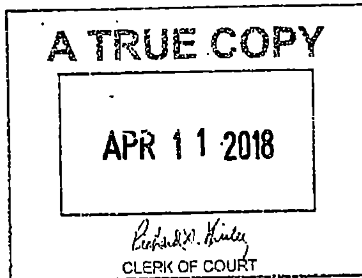

STAFF WRITER
palongi@greenvillenews.com

Each time the Greenville County grand jury meets, it considers about 900 indictments in a single day.

The group of 18 citizens went through 7,321 charges from Jan. 1 to Aug. 31 and returned indictments on all but one, according to the Greenville County Clerk of Court's Office.

The grand jury system was set up as a check against prosecutorial vendettas and hasty indictments. But with the grand jury blazing through so many cases, some have raised questions about how effective the panel can be.

Furman University political science professor Don Aiesi called the grand jury a "rubber stamp" for the Solicitor's Office. "The system isn't working," he said. "It has not functioned effectively as any kind of buffer."

Thirteenth Circuit Solicitor Bob Ariail said the grand jury hears about two-thirds of the cases that pass through his office. The panel rarely refuses to indict because solicitors weed out the weak cases and dismiss them, he said.

"We don't take junk to the grand jury," Ariail said.

The grand jury's job is to hear the state's evidence and decide if there is probable cause to hold a trial. Unlike most hearings in the criminal justice system, the defendant has no right to be present, have counsel or introduce evidence.

The Solicitor's Office doesn't oversee the grand jury. The panel reports to Chief Administrative Judge Gary Hill, who declined comment, citing judicial ethics.

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>
> — Bob Ariail
> 13th Circuit Solicitor

Defense attorney Stephen Henry said he has been arguing in some cases that indictments should be quashed because of how many cases are run through the system. But the grand jury is a secret process, he said, making his argument tough to prove.

"If I could bring in one grand jury foreman to testify under oath, I think all this would be over," Henry said.

The county's grand jury meets once a month. Panel members start hearing cases at 9 a.m. and usually finish by 6 p.m., although they wrapped up at about 3:45 p.m. last month, Arial said.

The grand jury has given solicitors specific instruc-

See JURY on page 3A

JURY

FROM PAGE 1A

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In DUI cases, for example, the jury may want to hear only about "where the stop took place, what the bad driving was and what the Breathalyzer is," Arial said.

"Bam, bam, bam — you're talking three seconds to present these cases," he said.

The U.S. Constitution guar antees defendants a grand jury hearing in federal cases, but the U.S. Supreme Court has said that states can use a different system, said Andrew Siegel, assistant law professor at the University of South Carolina.

Even with the option, there often is little support for eliminating grand juries at the state level, he said.

Solicitors like them because they are friendly to the prosecution, Siegel said. Defense attorneys see grand juries as a check on prosecutorial power, at least in some cases, and there is no guarantee they would be replaced with anything better, he said.

"... you treat the grand jury as archaic and do away with it," Siegel said, "or take steps to reinvigorate the grand jury."

State Sen. Ralph Anderson, D-Greenville, pledged in an interview with *The Greenville News* to learn more about the grand jury and consider legislation before the Legislature reconvenes in January.

Until he was contacted by *The News*, he didn't know about the grand jury's workload or the high percentage of indictments it returns.

"It can't be fair," said Anderson, a member of the Senate Judiciary Committee.

■ Paul Alongi can be reached at 298-

B-1

C-1

Grand jury races through docket

TOM LANGHORNE

Published: Thursday, November 23, 2000 at 3:15 a.m.

Twenty-two seconds. Actually, slightly less than 22 seconds.

That's how much time, on average, that Spartanburg County grand jurors had to devote to each of the 1,404 cases presented to them by 7th Circuit prosecutors over eight and a half hours on Tuesday.

The mass indictments come six weeks after a two-day grand jury session during which Solicitor Holman Gossett's office presented slightly fewer than 1,800 cases for indictment, drawing strong criticism from Gossett's successor and a leading legal ethics expert. Before that session, the highest number of charges Gossett's office had presented for indictment at any one time in the past two years had been 968. Gossett did not return telephone messages seeking comment, as has been the case since his June loss to Trey Gowdy in the Republican primary. Attempts to reach South Carolina Attorney General Charlie Condon were unsuccessful. A spokesman for Gossett said last month that mass indictments were necessary in light of Circuit Judge John Kittredge's recent decision to fine 13th Circuit Solicitor Bob Ariail for not complying with South Carolina Rules of Criminal Procedure. Ariail didn't comply with Rule 3(c), which states that prosecutors must take action on a given arrest warrant within 90 days after receiving the warrant from the clerk of court. The fine was eventually dropped. Indicting thousands of old and new cases en masse does not add to the statistical backlog that Gowdy will face when he takes office in January. Unindicted cases are already counted in the backlog as South Carolina Court Administration reports it. But Gossett's mass indictment strategy does create a large pool of indicted cases that Gowdy can't be sure have been scrutinized first. "It looks to me like the policy we used to have of reviewing cases to see if they have a basic degree of merit before sending them for indictment has been abandoned," said Spartanburg attorney Andy Johnston, who worked as an assistant solicitor under Gossett from 1988 to 1990. "All of a sudden they double the number of cases they send normally (in October), and then they do it again within a short time," Johnston said. "It sounds like they took all the cases that have been lying around and just sent them to the grand jury instead of reviewing them and making decisions about them." Spartanburg Public Safety Director Tony Fisher, who supported Gowdy in this year's campaign, accused Gossett of trying to sabotage Gowdy when his office sought about 1,800 indictments last month. On Wednesday, Fisher said "there is no way the system can handle that many cases in a reasonable amount of time." "We need to be honest with the public," he said. "We need to handle cases as quickly as we can, and deal with those where there is some reason to question prosecutorial merit within 60 days, instead of waiting this period of time and then doing this. "We owe that to victims and the public." Sheriff Bill Coffey, who supported Gossett in this year's campaign, declined to answer questions about Gossett's decision to seek thousands of indictments in a matter of weeks. Coffey did say through a

B-2

spokesman that such questions should be addressed to the grand jury and the court system. Gowdy, who will take office on Jan. 10, said the time to decide whether a case is prosecutable is before indictment. "I don't know what level of scrutiny was given these cases before they were submitted to the grand jury," he said. "I know it would be difficult for me to adequately scrutinize 1,400 cases in the period since the last grand jury met, which was about six weeks ago. "We're going to do a better job of getting with law enforcement and screening cases on the front end," Gowdy vowed. "If you can't move cases in a timely fashion, you're contributing to a backlog that adversely affects victims past, present and future." Eldon D. Wedlock Jr., a criminal law professor and legal ethics expert at the University of South Carolina's School of Law, reiterated his earlier criticism that seeking a large number of indictments at one time defeats the investigative purpose of grand juries. But Wedlock said grand jurors themselves should share the blame with Gossett. "Their duty is to listen to evidence of criminal allegations presented by prosecutors and witnesses, and to act as a screen against vindictive prosecutions or unfounded charges," Wedlock said. "They're not taking that duty as seriously as they should." Wedlock said the grand jury's foreman or a grand juror "should have objected and said 'Wait a minute, I want to hear some specific evidence why the state thinks this person has committed a crime.' " Wedlock did not spare Gossett's office from criticism. "They're allowing it to go on," he said. "They have an ethical obligation to do justice." Wedlock said he understands that Gossett has to be mindful of Judge Kittredge's action against Ariail, but Gossett wouldn't be in this position if he had been evaluating his cases promptly all along.

Tom Langhorne can be reached at tom.langhorne@shj.com or 582-4511, Ext. 7221.

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

RECEIVED
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SC Court of Appeals

Cordell Maddox, Jr., Circuit Court Judge

Case No. 2012-CP-04-0861

Gavin V. Jones, ... Appellant,

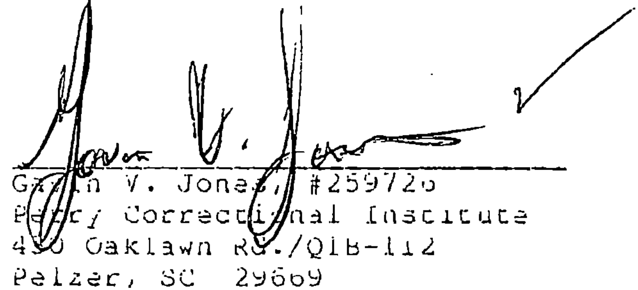
v.

State of South Carolina, ... Respondent.

PROOF OF SERVICE

I certify that I have served the INITIAL BRIEF OF APPELLANT & DESIGNATION OF MATTER upon Kelly Oppenheimer, Esq. by depositing a copy of it in the U.S. Mail, postage prepaid, on January 11, 2019 addressed to the S.C. Office of Attorney General; Post Office Box 11549; Columbia, SC 29211-1549.

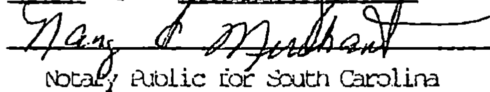
January 25, 2019



Gavin V. Jones, #259726
Perry Correctional Institute
430 Oaklawn Rd./Q1B-112
Pelzer, SC 29669

CC: Hon. Jenny Kitchens
SC Court of Appeals

SWORN TO AND SUBSCRIBED before me, this
29th day of January, 2019



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My Commission Expires: 1-23-2021

Exhibit E+F

Grand jury pace draws criticism

Panel typically weighs 900 indictments per day; questions raised over its effectiveness

STAFF WRITER
palongi@greenvil... s.com

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Even with the option, there often is little support for eliminating grand juries at the state level, he said.

Solicitors like them because they are friendly to the prosecution, Siegel said. Defense attorneys see grand juries as a check on prosecutorial power, at least in some cases, and there is no guarantee they would be replaced with anything better, he said.

"... you treat the grand jury as archaic and do away with it," Siegel said, "or take steps to reinvigorate the grand jury."

State Sen. Ralph Anderson, D-Greenville, pledged in an interview with *The Greenville News* to learn more about the grand jury and consider legislation before the Legislature reconvenes in January.

Until he was contacted by *The News*, he didn't know about the grand jury's workload or the high percentage of indictments it returns.

"It can't be fair," said Anderson, a member of the Senate Judiciary Committee.

■ Paul Alongi can be reached at 298-

C-1

Exhibit E + F

Grand jury races through docket

TOM LANGHORNE

Published: Thursday, November 23, 2000 at 3:15 a.m.

Twenty-two seconds. Actually, slightly less than 22 seconds.

That's how much time, on average, that Spartanburg County grand jurors had to devote to each of the 1,404 cases presented to them by 7th Circuit prosecutors over eight and a half hours on Tuesday.

The mass indictments come six weeks after a two-day grand jury session during which Solicitor Holman Gossett's office presented slightly fewer than 1,800 cases for indictment, drawing strong criticism from Gossett's successor and a leading legal ethics expert. Before that session, the highest number of charges Gossett's office had presented for indictment at any one time in the past two years had been 968. Gossett did not return telephone messages seeking comment, as has been the case since his June loss to Trey Gowdy in the Republican primary. Attempts to reach South Carolina Attorney General Charlie Condon were unsuccessful. A spokesman for Gossett said last month that mass indictments were necessary in light of Circuit Judge John Kittredge's recent decision to fine 13th Circuit Solicitor Bob Ariail for not complying with South Carolina Rules of Criminal Procedure. Ariail didn't comply with Rule 3(c), which states that prosecutors must take action on a given arrest warrant within 90 days after receiving the warrant from the clerk of court. The fine was eventually dropped. Indicting thousands of old and new cases en masse does not add to the statistical backlog that Gowdy will face when he takes office in January. Unindicted cases are already counted in the backlog as South Carolina Court Administration reports it. But Gossett's mass indictment strategy does create a large pool of indicted cases that Gowdy can't be sure have been scrutinized first. "It looks to me like the policy we used to have of reviewing cases to see if they have a basic degree of merit before sending them for indictment has been abandoned," said Spartanburg attorney Andy Johnston, who worked as an assistant solicitor under Gossett from 1988 to 1990. "All of a sudden they double the number of cases they send normally (in October), and then they do it again within a short time," Johnston said. "It sounds like they took all the cases that have been lying around and just sent them to the grand jury instead of reviewing them and making decisions about them." Spartanburg Public Safety Director Tony Fisher, who supported Gowdy in this year's campaign, accused Gossett of trying to sabotage Gowdy when his office sought about 1,800 indictments last month. On Wednesday, Fisher said "there is no way the system can handle that many cases in a reasonable amount of time." "We need to be honest with the public," he said. "We need to handle cases as quickly as we can, and deal with those where there is some reason to question prosecutorial merit within 60 days, instead of waiting this period of time and then doing this. "We owe that to victims and the public." Sheriff Bill Coffey, who supported Gossett in this year's campaign, declined to answer questions about Gossett's decision to seek thousands of indictments in a matter of weeks. Coffey did say through a

spokesman that such questions should be addressed to the grand jury and the court system. Gowdy, who will take office on Jan. 10, said the time to decide whether a case is prosecutable is before indictment. "I don't know what level of scrutiny was given these cases before they were submitted to the grand jury," he said. "I know it would be difficult for me to adequately scrutinize 1,400 cases in the period since the last grand jury met, which was about six weeks ago. "We're going to do a better job of getting with law enforcement and screening cases on the front end," Gowdy vowed. "If you can't move cases in a timely fashion, you're contributing to a backlog that adversely affects victims past, present and future." Eldon D. Wedlock Jr., a criminal law professor and legal ethics expert at the University of South Carolina's School of Law, reiterated his earlier criticism that seeking a large number of indictments at one time defeats the investigative purpose of grand juries. But Wedlock said grand jurors themselves should share the blame with Gossett. "Their duty is to listen to evidence of criminal allegations presented by prosecutors and witnesses, and to act as a screen against vindictive prosecutions or unfounded charges," Wedlock said. "They're not taking that duty as seriously as they should." Wedlock said the grand jury's foreman or a grand juror "should have objected and said 'Wait a minute. I want to hear some specific evidence why the state thinks this person has committed a crime.' " Wedlock did not spare Gossett's office from criticism. "They're allowing it to go on," he said. "They have an ethical obligation to do justice." Wedlock said he understands that Gossett has to be mindful of Judge Kittredge's action against Ariail, but Gossett wouldn't be in this position if he had been evaluating his cases promptly all along.

Tom Langhorne can be reached at tom.langhorne@shj.com or 582-4511, Ext. 7221.

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Honorable J. Cordell Maddox Jr.
Tenth Judicial Circuit
P.O Box 8002
Anderson SC 29622

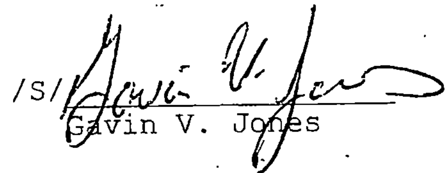
Date: 2/8/18

Mr. Gavin V. Jones #259726
Q-1A 111
430 Oaklawn Road
Pelzer SC, 29669

Re: Mandamus; States Order Dismissal

Judge Maddox,

By now, you have most likely signed the Order of Dismissal. And anyone can see it is in error. I am not arguing the substance of the Indictment but the presentment. If the law is not followed in obtaining the legal document, the document is no good, and you know this Judge. You cannot lie on a legal document by saying that the Grand juries under oath convened at a Court of General Session and it never happen. And you say that's ok we met in the basement at a court of Common Pleas. For one its Perjury under S.C Code of laws 16-9-10 A-2. It does not matter how long its been going on. It's against the law. I must say that it feels strange saying this to you. You are the Judge, when I think of a Judge the first thing that comes to mind is Integrity. That means being whole, unbroken, undivided. That means doing what's right, and I know you know. The Attorney General is so comfortable with your Integrity they invite you openly to engage in Exparte communication by asking you to give them a call about my Order Dismissal. This is wrong and you know it. Check it for yourself, if you have not already. Thank you for listening.



/S/ Gavin V. Jones

Cc: Attorney General
Legal Advisors

Clerk of Court
PO BOX 8002
Anderson, SC 29622

Sept 10 2014

Gavin V. Jones #259726
F1-A-165
386 Redemption Way
McCormick, SC 29899

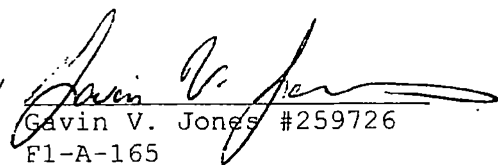
RE:

Dear Mr. Shirley

I have reviewed your letter and had it reviewed. To make sure both of us are looking at things according to SC Law. Here are some questions, please tell me what kind of motion Duckworth filed with Judge Dean H. Hall that does not require a written record. Next, you mentioned I could not obtain impanelment documents because of secrecy. I've sent you the cover page of a case that says I can, so I humbly renew that request also.

Here is the problem; you have given me an order based on a motion that does not exist. The order by Judge Dean H. Hall, is overruling an order by a Supreme Court Justice in which the order is asking that the Grand Jury be allowed to convene during the next 6 month term of General Sessions Court. Yet the dates listed on the order are outside of the terms of General Sessions Court, and to try to cover that you bring forth SC Code 14-5-410 which says in pertinent part, "That during the term of Common pleas=, the common pleas judge presiding can open up the Court of General Sessions to handle General Session's matters." Yet you have no documentation showing what common please judge, because you say the Grand Jury foreman acting as chairman presided over the Grand Jury. Yet that even goes against SC Code of Law 14-5-410, 14-9-210 and 14-9-170. If an order is based on a motion there must be a motion or the order is invalid, and surly you're not suggesting that Duckworth called Judge Dean H. Hall up and made a motion that is overruling an order of a Supreme Court Judge.

I mean no disrespect; all I'm humbly asking is for the truth. I will humbly await you response.

S/ 
Gavin V. Jones #259726
F1-A-165
386 Redemption Way
McCormick, SC 29899

cc. File
Judicial Commission
Justice Donald Beatty

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2012-CP-04-0861

Gavin Jones,

Plaintiff,

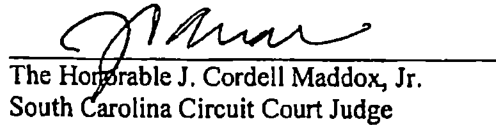
vs.

State of South Carolina,

Defendants.

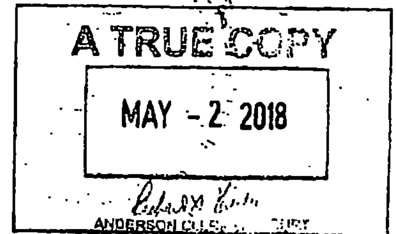
ORDER DENYING PLAINTIFF GAVIN JONES' MOTION TO ALTER AND AMEND

This matter comes before the Court on Plaintiff Gavin Jones's Motion to Alter or Amend pursuant to Rule 59(e), South Carolina Rules of Civil Procedure. This Motion for Reconsideration is hereby denied.



The Honorable J. Cordell Maddox, Jr.
South Carolina Circuit Court Judge

This 26 day of April 2018



FILED-CLERK'S OFFICE
ANDERSON SC
COMMON PLEAS AND
GENERAL SESSIONS

Date: March 23, 2015

Clerk for Chief Administrative Judge
for Anderson County
Post Office Box 8002
Anderson, S.C. 29622

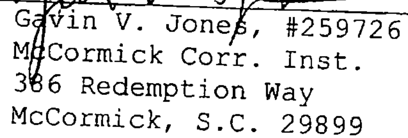
Case No. 2012-CP-04-00861

RE: Status of Writ of Mandamus
A) Status of Motion for Hearing
B) Status of Motion for appointment of counsel

Dear Clerk:

On March 12, 2012, I filed a Petition for Writ of Mandamus which was assigned Case No. 2012-CP-04-00861. On February 20, 2014, a hearing was held to relieve appointed Counsel. A Motion to relieve appointed Counsel was verbally granted during the hearing. However, the Mandamus issue was never properly adjudicated. The amended portion of the Mandamus Motion was never covered. And Judge Maddox did not rule if Mr. Jones would proceed Pro Se or would new Counsel be appointed. Petitioner humbly requests this Honorable Court would give the Petitioner the status on all of the above.

This 23 day of March 2015.



S/

Gavin V. Jones, #259726
McCormick Corr. Inst.
386 Redemption Way
McCormick, S.C. 29899

STATE OF SOUTH CAROLINA

In the Court of Appeals

Appeal from Anderson County

Court of Common Pleas

Cordell Maddox, Jr., Circuit Court Judge

RECEIVED
NOV 01 2019
SC Court of Appeals

Case No. 2012-CP-04-0861

Appellate Case No. 2018-001099

Gavin V. Jones..Appellant

v.

State of South Carolina..Respondent

REPLY BRIEF

Other Counsel of Record

Taylor Z. Smith

Assistant Attorney General

Post Office Box 11549

Columbia, SC 29211

Gavin V. Jones

Perry Correctional Institution

430 Oaklawn Road – Q1B-112

Pelzer, SC 29669

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State v. James, 472 S.E. 2d 38@40 (Ct. App 1996)

REPLY TO ARGUMENT

Respondent contends that the procedures followed when Appellant was indicted did not deviate from the procedures provided in S.C. Code Ann § 14-9-210, therefore the indictment is not void. And the Circuit Court did not err in denying the Applicant's petition for a Writ of Mandamus to compel the Solicitor and Court, to use a lawfully obtained indictment.

It seems that the only way the Respondent could reply to the Appellant's brief is to twist his words. Twice the Respondent claims in the first paragraph that Appellant disregards something.

"They Quote"

(1) Appellant disregards language in the order that indicate that the judicial circuits still had discretion to conduct their own affairs as they deemed necessary.

Appellant does not know what affairs the Respondent is speaking of, but the Solicitor and the Court do not have discretion when it comes to **PRESENTATION OF A LAWFUL INDICTMENT.** (Emphasis added)

(2) Appellant disregards an order of the Chief Judge for Administrative Purposes convening the Grand Jury on the date on which Applicant's indictment was, true-billed, and ignores the practice in this state of allowing the judicial circuits to convene the Grand Jury outside of terms of the Court of General Sessions.

Let me please point out to the Court that the Order that the Respondent is speaking of is asking that the "Grand Jury convene for the next 6-month Term of General Sessions Court". **Yet, the date the Solicitor uses is not during General Sessions Court, but Common Pleas.**

(Emphasis added) The next sentence the Respondent claims that Appellant ignores the **"PRACTICE IN THIS STATE"** of convening the Grand Jury outside of Terms of General Sessions Court.

Please tell me why the Solicitor's Office had an Order signed asking that the Grand Jury Convene for the next 6-month Term of Court of General Sessions, but disregards the Order, and readily admits that is has been a **"Practice"** in South Carolina to do so. What truly amazes the Appellant is that the Respondent has so much confidence in the integrity of this Court that they would readily admit on record. Yes we violated Appellant's Due Process Rights, yes we committed Perjury and yes we committed a "sham legal process" to get this conviction. Appellant humbly submits regardless of how the Respondent tries to smooth it over. It is a flat out denial of my 14th Amendment Procedure Due Process Rights. For if it's been a practice for that long, they should have made it a law because in the state of South Carolina, a practice does not overrule Statutory Law.

It is Appellant's position that the Solicitor's Office and the Court had a ministerial duty to bring Appellant to trial with a lawfully obtained indictment. The lower court has admitted that they did not follow the law when seeking an indictment on Appellant **(See Transcript Pages 9, lines 17-25 and 10, lines 1-19)**. Also in the very first paragraph of the Respondent's Initial Brief, they have also admitted that they also know Appellant's indictment wasn't obtained lawfully **(See Initial Brief Page 4)**.

Respondent speaks of this violation of Appellant's procedure due process rights and total miscarriage of justice as if it wasn't prejudicial to Appellant's life. This unlawful act allowed the Solicitor to go unchecked in his pursuit of a conviction. The victim was a man that was well

known by the upper class in Anderson. It would be a feather in the hat of the Solicitor who obtained the conviction.

There was NO DNA, Eye Witness, NO Fingerprints, NO Forensics, NO Hair or fibers, NO confession, and NO weapon linking Appellant to the scene.

The state presented NO time of death, nor was any procedure done to estimate time of death. (Emphasis added)

Innocence means nothing when you are fighting against a state who had unlimited resources. This was no slam dunk case, and because the state was seeking the life and liberty of Appellant, he had a 14th Amendment Due Process Right to have the laws followed.

Before the Appellant goes any further in this Reply, Appellant will share with the Court what a Supreme Court Justice wrote to the judges, prosecutors, and aiding law enforcement.

"CHIEF OF THE UNITED STATES SUPREME COURT JUDGES RULED AND STATED TO ITS LOWER COURTS PROSECUTORS AND AIDING LAW ENFORCEMENTS, BUT MOST OF ALL, THE WILL AND FOR THE WILL OF OUR GOD:

HAVE WE THE RIGHT TO WORK CRAFTINESS TOGETHER AGAINST CONSTITIONAL RIGHTS TO GAIN OUR CONVICTIONS, BY USING THE IGNORANCE OF OUR OWN CITIZENS VIOLATING THEIR RIGHT – TO DUE PROCESS OF THE LAW;

WHEN WE AS THE JUDGES OF WHAT IS RIGHT AND THE STANDARD OF LIGHT OUT OF VIOLENCE FOR GENERATIONS TO COME, GAIN OUR

CONVICTIONS THROUGH ILLEGAL MEANS, ARE WE NOT THE WORSE CRIMINALS, AND THE STIRRING OF ANGER TO SO MANY NEEDING HELP?"

OPPOSING ARGUMENTS TO CONSIDER

Pages 7-9 of Respondent's Brief:

- Petitioner had not discovered that his indictment was obtained illegally until after his initial PCR process was complete. Furthermore, since Petitioner's complaint involved the Solicitor's deliberate act of circumventing statutory laws which governs the indictment process, Petitioner had no other remedy except "extraordinary writ".
- Respondent is mistaken on the claim that Petitioner had previously raised the issue of his indictment being "True Bill" when there was **no General Sessions Court in attendance**. Therefore, the doctrine of **res judicata** cannot apply because the issue of the **illegally** obtained indictment has never been adjudicated on the merits.
- To Respondent's claim that Petitioner could have challenged the indictment prior to jury being sworn, as according to **Gentry**, Petitioner can only point out that **Gentry** had not become precedent when he was unlawfully indicted.

Pages 10-11 of Respondent's Brief:

- Regarding the cite referencing **State v. James, 472 S.E. 2d 38@40 (Ct. App. 1996),** Petitioner does not challenge the "**regularity**...of proceedings before a grand jury..." because the "regularity" of **ex parte**, grand jury indictment proceedings is common knowledge. However, through clear and convincing "evidence to the contrary,..." Petitioner challenges the **"legality"** of the **ex parte**, grand jury indictment proceeding, wherein his indictment was allegedly heard, deliberated, and rendered True Bill. The issue at hand cannot be made any more clear than this. The Assistant Attorney General is only trying to confuse the courts on the exact matter being challenged.
- Furthermore, regarding **State v. James**, it is precisely this "presumed legality" of grand jury proceedings which has caused and prevented people, especially trial counsel, from ever

challenging the "legality of proceedings" in the first place. As a matter of fact, it appears that, historically, grand juries have been convening, with "regularity", outside the Courts of General Sessions, as prescribed by statutory law, to process indictments illegally; hence, "Sham Legal Process" – the elephant in the room.

Pages 11-12 of Respondent's Brief:

- The Assistant Attorney General argues that Petitioner "is fixated on a technicality" [of the law]. In response, Petitioner asserts that he was tried, convicted, and sentenced through the "technicalities" of the law. Why should any county solicitor, therefore, be allowed to circumvent the law which mandates that **ex parte** grand jury indictment proceedings be held and conducted "while in attendance upon the Court of General Sessions?" Is he not to be held to the same standard of law as Petitioner? Moreover, it is a matter of Professional Conduct that solicitors ensure that convictions, which would certainly include the manner in which **ex parte** indictment proceedings are conducted, take place "in strict conformity of the law".
- **State v. Funderburk**, also concerned the "acts of a court with respect to a matter as to which it has no jurisdiction are void". Because the very next sentence in the opinion precisely addresses the issue challenged by Petitioner, the matter at hand; "The jurisdiction of a grand jury is co-extensive with the criminal jurisdiction of the court in which it is impaneled", the indictment upon which Petitioner was tried and convicted would be null and void. The grand jury did not indict Petitioner "while in attendance upon a Court of General Sessions", as prescribed by law. **S.C. Code § 14.9.210**. Like Petitioner's challenge, **Funderburk** was not premised on the subject matter or sufficiency of an indictment either. It is premised on the court's **lack** of jurisdiction, **in personam**; the power to bring the person into its adjudicative process. Because of the unlawful manner in which the indictment was obtained, the court was deprived of its power, regardless of the indictment's sufficiency in subject matter or its ability

to place a defendant – the Petitioner – on notice. In some jurisdictions, this has been referred to as "fatal defect".

- And, once again, the **Gentry** precedent did not exist when Petitioner was indicted. But, even if it had, it would not apply because the challenge is against the process by which indictments are presented and made True Bill, not about subject matter or sufficiency of notification.
- Whether it is to allow "judicial circuits to tend to their own administrative affairs" or for "public interest", when the Supreme Court "recently ordered" the "Chief Judge for Administrative Purposes…" to convene the grand jury at other times, the Court certainly did not intend for this to mean that grand juries could convene somewhere other than upon courts of General Sessions, contrary to statutory law. After all, the Court did state that this is permitted only "where feasible".

Back to Page 4 of Respondent's Brief:

- It is interesting to note that the Assistant Attorney General accuses the Petitioner of "ignor[ing] the **PRACTICE** in this state of allowing the judicial circuits to convene the grand jury **outside** of terms of the Court of General Sessions". Even Taylor Z. Smith admits this is unlawfulness. Just because it's been a long-standing, historical practice, does not make it right, does not make it legal. It only accentuates the magnitude of the problem! (Emphasis added)

CONCLUSION

Can (we) Applicant and this Appeal Court be honest? The law is clear, the **PRACTICE** of **DENYING** Appellant's **PROCEDURE DUE PROCESS RIGHTS** is clear.

1. The Solicitor and Lower Court used a phony order asking that the Grand Jury convene for the next (6) month Term of General Session; when it was a Court of Common Pleas date that was used.

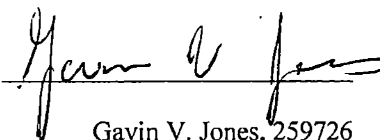
2. The Solicitor then printed a lie, false information on Appellant's indictment, committing Perjury 16-9-10 A-2; this voided the indictment.

3. The Solicitor then took that illegal document and used it to illegally bring Appellant to trial; this was a sham legal process.

"No local rule of Court, Administration Order, Policy or other Procedure can take precedent over statutory law, which is always controlling. See **Constitution Article I, Section 14** and **State v. Cottingham**, 77 S.E. 2d 897, 224 S.C. 181 (1953) (Statute overrides rules of court in conflict), **State v. Duncan**, 264 S.E. 2d 421 (S.C. 1980) (Circuit Court rule promulgated individual and void).

This Court should grant relief that shows the Appellant's Procedure Due Process Rights were upheld and that the Court never had **in personam** jurisdiction over Appellant.

Respectfully Submitted,



Gavin V. Jones, 259726

Q1B-112 PCI

430 Oaklawn Road

Pelzer, SC 29669

STATE OF SOUTH CAROLINA

In the Court of Appeals

Appeal from Anderson County

Court of Common Pleas

Cordell Maddox, Jr., Circuit Court Judge

RECEIVED
NOV 01 2019
SC Court of Appeals

Case No. 2018-001099

Gavin V. Jones..Appellant

v.

State of South Carolina...Respondent

PROOF OF SERVICE

I hereby certify that, on this day, I have served/filed a Reply Brief, upon the following individuals by depositing a copy of the same into the U.S. Mail, postage prepaid, addressed as follows:

Taylor Z. Smith
Assistant Attorney General
Post Office Box 11549
Columbia, SC 29211

Jenny A. Kitchings
Clerk of Court
Post Office Box 11629
Columbia, SC 29211

Sworn to and Subscribed before me this

30 day of October, 2019

Tamara Conwell Notary of SC

My Commission Expires: My Commission Expires September 25, 2023

Gavin V. Jones, 259726

430 Oaklawn Road Q1B-112

Pelzer, SC 29669

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OCT 30 2019
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