THE STATE OF SOUTH CAROLINA
In The Supreme Court

RULE 203(d)(1)(A)(v), SCACR APPEAL FROM THE STATE GRAND JURY
Court of General Sessions

The Honorable L. Casey Manning, Circuit Court Judge

State Grand Jury Investigation # M2014-237

In the Matter of State Grand Jury Investigation # M2014-237,

Attorney General of the State of South Carolina, Appellant,

v.

Robert W. Harrell, Jr, Respondent.

NOTICE OF APPEAL

The Attorney General, in his official capacity as the Chief Prosecuting Officer of the State of South Carolina and as legal advisor to the South Carolina State Grand Jury, hereby appeals the Order in this matter issued by the Honorable L. Casey Manning on May 12, 2014, which declared the above-captioned State Grand Jury investigation void *ab initio*, and enjoined the State Grand Jury and any other investigative agency from taking any action "concerning the ethics violations discussed herein". Appellant received written notice of this Order on May 12, 2014, and is appealing directly to the Supreme Court pursuant to S.C. Code § 14-7-1630(G), S.C. Code § 14-8-200(b)(6), and RULE 203(d)(1)(A)(v), SCACR.

May 19, 2014.

ALAN WILSON, ATTORNEY GENERAL

JOHN W. MCINTOSH, CHIEF DEPUTY ATTORNEY GENERAL

ROBERT D. COOK, SOLICITOR GENERAL

W. ALLEN MYRICK, SR. ASST. DEPUTY ATTORNEY GEN'L

S. CREIGHTON WATERS, ASST. DEPUTY ATTORNEY GEN'L
PO Box 11549; Columbia, SC 29211. (803)734-3693.

ATTORNEYS FOR APPELLANT.

Other Counsel of Record:
Gedney M. Howe, III
PO Box 1034
Charleston, SC 29402
(843) 722-8048

E. Bart Daniel
P.O. Box 856
Charleston, SC 29402
(843)722-2000

Attorneys for Robert W. Harrell, Jr.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RULE 203(d)(1)(A)(v), SCACR APPEAL FROM THE STATE GRAND JURY
Court of General Sessions

The Honorable L. Casey Manning, Circuit Court Judge

State Grand Jury Investigation # M2014-237

In the Matter of State Grand Jury Investigation # M2014-237,

Attorney General of the State of South Carolina, Appellant,

v.

Robert W. Harrell, Jr, Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Robert W. Harrell, Jr., by depositing a copy of it in the United States Mail, postage prepaid, on May 19, 2014, addressed to his attorneys of record, Gedney M. Howe, III, Post Office Box 1034, Charleston, South Carolina 29402, and E. Bart Daniel, Post Office Box 856, Charleston, South Carolina 29402.

May 19, 2014

ALAN WILSON
ATTORNEY GENERAL

JOHN W. MCINTOSH
CHIEF DEPUTY ATTORNEY GENERAL

ROBERT D. COOK
SOLICITOR GENERAL

W. ALLEN MYRICK
SR. ASSISTANT DEPUTY ATTORNEY GENERAL

By: _____
S. CREIGHTON WATERS
ASSISTANT DEPUTY ATTORNEY GENERAL
Post Office Box 11549,
Columbia, SC 29211 (803)734-3693.
ATTORNEYS FOR APPELLANT.

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RULE 203(d)(1)(A)(v), SCACR APPEAL FROM THE STATE GRAND JURY - RICHLAND COUNTY
Court of General Sessions

The Honorable L. Casey Manning, Circuit Court Judge

State Grand Jury Investigation # M2014-237

In the Matter of State Grand Jury Investigation # M2014-237,

Attorney General of the State of South Carolina, Appellant,

v.

Robert W. Harrell, Jr, Movant-Respondent.

MOTION TO EXPEDITE

Pursuant to Rule 263(b), SCACR, the Attorney General would respectfully request this Court to expedite the briefing schedule and the submission or calling for oral argument of this appeal, which results from an unprecedented order that: (1) declared an active State Grand Jury investigation void *ab initio*, (2) requires a referral from a legislative committee before the Attorney General can proceed with his centuries old constitutional prerogative and discretion to prosecute crimes as he sees fit, and (3) even goes so far as to enjoin "the Grand Jury [or] any other investigative agency" from taking "any further action" concerning the ethics violations allegations".

This motion is made because of the weighty public interests at stake from the

unprecedented and expansive nature of this order. No State Grand Jury has ever been retroactively declared void while it is in the middle of its investigative work. The order at issue also flatly treads upon the Attorney General's constitutionally protected role as the prosecutor of crime, and also treads upon his statutorily mandated role as legal advisor to the State Grand Jury. Further, this expansive and unprecedented order is also completely at odds with this Court's clear caselaw on the issue, as this Court has already held: "the absence of a complaint to the ethics commission will never operate as a limitation upon the state's independent right to initiate a criminal prosecution." State v. Thrift, 312 S.C. 282, 307, 440 S.E.2d 341, 355 (1994).

Despite being so clearly wrong, the order even goes so far into rare territory as to enjoin investigation into ethics crimes. This Court has expressly stated that "it is a dangerous thing in enjoining criminal prosecutions", and the court "must be very careful in doing so". The Court continued:

> [O]rdinarily the enjoining of criminal prosecutions is not proper, but that, where the prosecution is about to be brought under a statute which is either void or unconstitutional, an injunction is proper provided property rights are involved.

Palmetto Golf Club v. Robinson, 147 S.C. 347, 141 S.E. 610 (1928). There is no contention here – much less a finding by any Court -- that the Ethics Act *itself* is void or unconstitutional. Of course, while an investigation is being enjoined evidence can be lost or destroyed or manipulated, and the search for truth gets harder.

Therefore, given the weighty matters at stake here, including the public's confidence in its governmental institutions, this Order's express limitations on the constitutional prerogative of statewide elected officer, the Order's unprecedented result of

retroactively declaring a State Grand Jury investigation void, and – most importantly – the public interest in the search for truth, it is respectfully submitted that this appeal should be resolved as quickly as possible with an abbreviated briefing and argument schedule. See generally George v. Municipal Election Comm'n of the City of Charleston, 335 S.C. 182, 516 S.E.2d 206 (1999).

Additionally, a supersedeas petition will be forthcoming.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

ROBERT D. COOK
Solicitor General

W. ALLEN MYRICK
Sr. Assistant Deputy Attorney General

S. CREIGHTON WATERS
Assistant Deputy Attorney General

ATTORNEYS FOR APPELLANT

BY: _____

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3693

May 19, 2014.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RULE 203(d)(1)(A)(v), SCACR APPEAL FROM THE STATE GRAND JURY
Court of General Sessions

The Honorable L. Casey Manning, Circuit Court Judge

State Grand Jury Investigation # M2014-237

In the Matter of State Grand Jury Investigation # M2014-237,

Attorney General of the State of South Carolina, Appellant,

v.

Robert W. Harrell, Jr, Respondent.

PROOF OF SERVICE

I certify that I have served the Motion to Expedite on Robert W. Harrell, Jr., by depositing a copy of it in the United States Mail, postage prepaid, on May 19, 2014, addressed to his attorneys of record, Gedney M. Howe, III, Post Office Box 1034, Charleston, South Carolina 29402, and E. Bart Daniel, Post Office Box 856, Charleston, South Carolina 29402.

May 19, 2014

ALAN WILSON
ATTORNEY GENERAL

JOHN W. MCINTOSH
CHIEF DEPUTY ATTORNEY GENERAL

ROBERT D. COOK
SOLICITOR GENERAL

W. ALLEN MYRICK
SR. ASSISTANT DEPUTY ATTORNEY GENERAL

By: _____
S. CREIGHTON WATERS
ASSISTANT DEPUTY ATTORNEY GENERAL
Post Office Box 11549,
Columbia, SC 29211 (803)734-3693.
ATTORNEYS FOR APPELLANT.