

Office of the Public Defender
Fourteenth Judicial Circuit
Stephanie Smart-Ginnings, Circuit Defender

BEAUFORT COUNTY
Human Services Building
1905 Duke Street, Room 210
Post Office Box 525
Beaufort, SC 29902
(843) 255-5805 (Phone)
(843) 255-9494 (Fax)

ALLENDALE, HAMPTON & JASPER COUNTIES
1 Courthouse Square
80 Elm Street, Room 133
Post Office Box 506
Hampton, SC 29924
(803) 914-2240 (Phone)

COLLETON COUNTY
319 N. Lucas Street
Walterboro, SC 29488
(843) 549-1633 (Phone)
(843) 549-9543 (Fax)

June 28, 2022

RECEIVED

The State v. George Holmes, Appellate Case No. 2022-000728 AUG 02 2022
George Holmes
Inmate ID No.: 289114
Kirkland Correctional Center
4344 Broad River Road
Columbia, SC 29210
SC Court of Appeals
Rule 2 Preliminary Hearing

Dear Mr. Holmes,

I am writing to you in response to your letter dated June 1, 2022. Regarding your request for your sentencing sheets, I have attached a copy to this letter. In regard to your request for the transcripts from your trial, the Office of Appellate Defense has ordered those in preparation and review for your appeal from trial. Your attorneys with SC Appellate Defense should be able to provide you a copy of the trial transcript.

As it pertains to your request for the preliminary hearing recording, we looked into that before and during your trial. The Beaufort Magistrate Court does not maintain recordings from hearings that took place that long ago. I was not assigned to your case at that time.

Please see: Under Oath, False Statement
Ineffective Assistant of Council
321. Nature of Preliminary hearing.
22 C.S.S. Criminal Procedure 3 Rights Accused

George Holmes

Respectfully,

George Holmes

Rule 2 Preliminary Hearing

Colin J. Hamilton, Esq.

Rule 2

If Beaufort Magistrate Court does not maintain recording from Preliminary hearing On 2-1-2019, when the incident occurred. It's Tampering with Evidence - Facts

Wow...

DNA

Thanks

With kindest Regards I'm George Holmes
George Holmes



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

June 21, 2022

George Holmes, 00289114
Kirkland Correctional Institution
4344 Broad River Road
Columbia SC 29210

Re: *Please See*
The State v. George Holmes
Appellate Case No. 2022-000728

Dear Mr. Holmes:

Upon reviewing your motions to relieve counsel, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter:

- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR. The proof of service must show service upon all parties, including the Office of Indigent Defense. Their address is:

South Carolina Commission on Indigent Defense
PO Box 11433
Columbia, SC 29211

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

AUG 02 2022

SC Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of General Sessions

The Honorable Carmen T. Mullen, Circuit Court Judge

Warrant No (s): 2018A0710200399, 2018A0710200400
Indictment No (s): 2019GS0700039, 2019GS0700040

STATE OF SOUTH CAROLINA,

Respondent.

v.

GEORGE HOLMES,

Appellant.

PROOF OF SERVICE

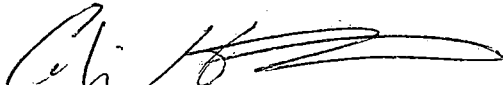
I certify that I have served the Notice of Appeal on the below listed respondents by depositing a copy of it in the United States Mail, postage prepaid, on May 26, 2022.

Jared Shedd, Esq.
Assistant Solicitor
Post Office Box 1880
Bluffton, South Carolina 29910

Alan Wilson, Esq.
Attorney General
P.O. Box 11549
Columbia, SC 29211

I further certify that on May 26, 2022 an Original Notice of Intent to Appeal in the above captioned case was filed with the Beaufort County Clerk of Court.

May 26, 2022



Colin Hamilton, Esq.

Bar No. 104439

Assistant Public Defender

Post Office Box 525

1905 Duke Street, Room 210

Beaufort, SC 29902



PATRICK
LAW FIRM

RE: The State

January 25, 2021

✓
George Holmes
39 Samuel Lane
St. Helena Island, SC, 29920

Appellate Case No. 2022-000728

Mr. Holmes,

As of this week, I am no longer representing you on your criminal charges. I have had a medical issue in my family that has rendered me unable to represent any criminal clients that I received from my contract with the South Carolina Commission on Indigent Defense.

Your case has been assigned to Ashley Cornwell, an extremely qualified attorney with years of criminal experience. Her mailing address is 1470 Ben Sawyer Blvd #14, Mt Pleasant, SC 29464 and her office line is 843-595-6003. She will be reaching out to you sometime in the near future.

I regret that I was unable to see your case through to completion. I would not have withdrawn from this case if it were not absolutely necessary. You have been a pleasure to work with, and I know that Ms. Cornwell will do everything she can to assist you in your case. I have made digital copies of your entire file for Ms. Cornwell. I wish you the best in the future.

Sincerely,

Charles Patrick
Patrick Law Firm

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

STATE OF SOUTH CAROLINA

-vs-

GEORGE HOLMES

Defendant.

IN THE COURT OF GENERAL SESSIONS
FOURTEENTH JUDICIAL CIRCUIT

WARRANT #s:

2018A0710200399 and 2018A0710200400

**ORDER GRANTING DEFENDANT'S
MOTION FOR BOND**

non-violent Released

This matter is before me pursuant to a motion by Charles W. Patrick, III, appointed counsel for the Defendant, George Holmes, for an own recognizance bond on the above referenced cases. Following a phone conference hearing held on March 25, 2020, I ordered that, should Mr. Holmes provide a stable living address, he would be allowed release on his own recognizance pending trial in the above reference matter. Mr. Holmes's permanent address is:

George Holmes
39 Samuel Lane
St. Helena Island, SC 29920

Bond is hereby ordered as follows:

non-violent Released

1. Mr. Holmes shall be released on his own recognizance.
2. Mr. Holmes shall reside at 39 Samuel Lane, St. Helena Island, SC 29920 until the resolution of his case and shall be on house arrest.
3. Mr. Holmes may only leave this residence for court appearances, meetings with his attorney, and for his employment.

AND IT IS SO ORDERED.

Judge Carmen T. Mullen

March 26, 2020

Certified - A True Copy

Jerri Ann Roseneau - Clerk of Court
Beaufort County, SC - Jennifer Petroff

FILED
MAR 25 PM 2:19
JERRI ANN ROSENEAU
CLERK OF COURT
BEAUFORT COUNTY, S.C.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE COURT OF GENERAL SESSIONS
Indictment No.(s): 2019GS0700039-40,
2019GS0700547
A/Warrant No.(s): 2018A0710200399-400,
2019A0710400105

The State of South Carolina,)

Plaintiff,)

v.)

ORDER FOR COMPETENCY TO STAND
TRIAL EVALUATION PURSUANT TO
STATE V. BLAIR

EVALUATION BY
(Select Only One)

Department of Mental Health (Mental
Illness)

OR

GEORGE HOLMES,
Defendant.

Department of Disabilities and Special
Needs
(Intellectual Disability or Related Disability)

*How can the trial
charge me a Greater
offense of Burglary 2nd Violent??????*

This matter is before me for an order requiring defendant, George Holmes, charged with one (1) count of Burglary, 2nd Degree (Non-Violent), one (1) count of Safecracking, and one (1) count of Indecent Exposure, to submit to an evaluation for competency to stand trial pursuant to State v. Blair, 275 S.C. 529, 273 S.E.2d 536 (1981) and S.C. Code Ann. § 44-23-410 (1976).

BASIS FOR ORDER. I have considered the showing made in support of the motion requesting this evaluation and have reason to believe defendant may lack the competency to understand the criminal proceedings or to assist with the defense as a result of a lack of mental competence.

This order is issued for the following reasons: Due to Defendant's extensive mental health history and as a result there is the concern that client appears to not be able to understand or assist attorney in his own defense.

THEREFORE, IT IS ORDERED: Defendant shall be examined and observed at an appropriate facility by two examiners of the Department of Mental Health if suspected of having a mental illness or by two examiners designated by the Department of Disabilities and Special Needs if suspected of having an intellectual disability or a related disability, to render an opinion whether defendant is competent to stand trial.

Certified - A True Copy

[Signature]

Jerr Ann Roseberry - Clerk of Court
Beaufort County, SC - Jennifer Petroff

19 MAY 28 PM 2:26
JERR ANN ROSEBERRY
CLERK OF COURT
BEAUFORT COUNTY, S.C.

0-15 YEARS

STATE GEORGE HOLMES

INDICTMENT/CASE#: 2019GS0700039

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BEAUFORT

STATE

VS.

INDICTMENT/CASE#: 2019GS0700039

States non violent

GEORGE HOLMES

A/W#: 2018A0710200399

AKA:

Date of Offense: 12/28/2018

Race: Black Sex: Male Age: 34

S.C. Code §: 16-11-312(B)(3)

DOB: _____ SS#: [REDACTED]

CDR Code #: 0086

Address:

City, State, Zip: _____

SENTENCE SHEET

DL#* _____ SID# _____

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Burglary 2nd Degree Violent *States non violent Please see A/W #: 2018A0710200399*

In violation of § 16-11-312(B)(3) of the S.C. Code of Laws, bearing CDR Code # 0086

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Solicitor _____ SC Bar # _____ Defendant _____ Attorney for Defendant _____ SC Bar # _____

WHEREFORE, the Defendant is committed to the State Department of Correction County Detention Center,

for a determinate term of 15 days/months/years Time Served Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.

505 days/months

To include time spent on monitored house arrest prior to trial and sentencing

The Defendant Shall be Released from County Detention Center.

SCCA/217 (07/2021)

Handwritten signature and stamp
Certified - A True Copy
Jerrri Ann Roseneau - Clerk of Court
Beaufort County, SC - Jennifer Petroff

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of General Sessions

The Honorable Carmen T. Mullen, Circuit Court Judge

Warrant No (s): 2018A0710200399, 2018A0710200400
Indictment No (s): 2019GS0700039, 2019GS0700040

STATE OF SOUTH CAROLINA,

States non violent

Respondent.

v.

GEORGE HOLMES,

Appellant.

NOTICE OF APPEAL

*Indictment # 2019GS0700039, states
Burglary 2nd non-violent*

George Holmes appeals his trial, conviction and sentence on the charges of Burglary -

Second Degree (Violent) and Safecracking before the Honorable Carmen T. Mullen, Presiding Judge, Fourteenth Judicial Circuit. George Holmes also appeals the Denial of his Motion for Direct Verdict on May 18, 2022 before the Honorable Carmen T. Mullen, Presiding Judge, Fourteenth Judicial Circuit.

Fourteenth Judicial Circuit.

*How can the trial give me
a greater offense of
Burglary 2nd violent??*

*George Holmes
George Holmes*

Rule 2 Preliminary Hearing

22 C.J.S. Criminal Procedure and Rights of Accused § 21

Corpus Juris Secundum March 2019 Update

Criminal Procedure and Rights of the Accused

Francis C. Amendola, J.D.; Joseph Bassano, J.D.; Kristina B. Mize Bice, J.D.; of the staff of the National Legal Research Group, Inc.; Elizabeth A. Bosek, J.D.; M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Paul M. Colloff, J.D.; Cecil Fibr, J.D.; John Glenn, J.D.; Amy G. Gore, J.D.; of the staff of the National Legal Research Group, Inc.; Lonnie E. Griffith, Jr., J.D.; Eleanor L. Grossman, J.D.; of the staff of the National Legal Research Group, Inc.; Glenda K. Harnad, J.D.; Janice Holthen, J.D.; Alan J. Jacobs, J.D.; John Kimpffeen, J.D.; Julanna Frisch Kittelson, J.D.; Jack R. Levin, J.D.; William J. Lindsey, J.D.; Anne L. Melley, J.D.; L.L.M.; of the staff of the National Legal Research Group, Inc.; Karl Oakes, J.D.; Jeffrey J. Shampine, J.D.; and Eric C. Surette, J.D.

George Holmes
George Holmes

Part One. Complaint, Jurisdiction, Venue, and Arrest; Investigation

F. Preliminary Matters: Complaint, Affidavit, Warrant, Hearing, and Commitment

D. Preliminary Hearing or Examination

1. In General:

George Holmes
George Holmes

Rule 2 Preliminary Hearings

Rule 2 Preliminary Hearing

Rule 2 → § 21. Nature of preliminary hearing

Topic Summary References Correlation Table

West's Key Number Digest

West's Key Number Digest: Criminal Law § 207(4), 222.1

A preliminary hearing is not a trial, rather, it is a hearing to determine whether or not an accused probably committed a crime, and thus should be held over for trial or set free, as the facts warrant.

A "preliminary examination" is a public hearing conducted before a magistrate at which the prosecution and the defendant may present evidence.¹ Unlike a trial, a preliminary hearing is not a trial of the guilt or innocence of the accused,² rather, it is a hearing to determine whether an accused probably committed a crime.³ The determination thereof is not a final judgment.⁴

Subject to the rights secured to a person accused of a crime by the provisions of the constitution, the legislature may in general provide for preliminary hearings or investigations,⁵ but the rules that govern criminal pleading and the scope and import of trial issues and the relevancy of evidence are not applicable thereto.⁶

Purposes: Rule 2 Preliminary Hearing

In general, a preliminary hearing serves a limited purpose: to determine if there is probable cause to believe that the defendant committed the crime charged,⁷ so as to warrant further proceedings,⁸ or to hold the accused for prosecution if warranted.⁹

Moreover, the preliminary hearing or examination is used to protect the accused who is unjustly or improperly charged from being compelled to stand trial,¹⁰ to ferret out groundless and improvident prosecutions,¹¹ to prevent the accused's detention without probable cause,¹² to preserve the evidence and keep the witnesses within the control of the state, and to determine the amount of bail¹³ if the offense is bailable.¹⁴

On the other hand, it is not the purpose of a preliminary hearing to establish guilt or innocence,¹⁵ since it is not a mini-trial,¹⁶ and as such the defendant cannot assert a mistake of law defense to overcome the charged offense at a preliminary hearing.¹⁷ A preliminary examination is not available to the accused for the purpose of ascertaining in advance the evidence relied on by the prosecution,¹⁸ nor is a preliminary hearing the proper forum to choose between conflicting facts or inferences, or to weigh the state's evidence against evidence favorable to the defendant.¹⁹ Although some discovery results as a by-product of the preliminary hearing,²⁰ discovery is not the purpose of the hearing.²¹

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Footnotes

1. Cal.—People v. Martinez, 22 Cal. 4th 750, 94 Cal. Rptr. 2d 381, 996 P.2d 32 (2000).
2. N.D.—State v. Foley, 2000 ND 91, 610 N.W.2d 49 (N.D. 2000).
Pa.—Com. v. Sanchez, 623 Pa. 253, 82 A.3d 943 (2013).
As to determination as to guilt or innocence of accused on preliminary examination, see § 32.
Summary proceeding only.
A preliminary hearing as to probable cause is not a preliminary trial or a full evidentiary trial on the issue of guilt beyond a reasonable doubt; rather, it is intended to be a summary proceeding to determine essential or basic facts as to probability.
Wis.—State v. Anderson, 2005 WI 54, 280 Wis. 2d 104, 695 N.W.2d 731 (2005).
3. N.D.—State v. Foley, 2000 ND 91, 610 N.W.2d 49 (N.D. 2000).
Idaho—State v. Schall, 157 Idaho 488, 337 P.3d 647 (2014).
W. Va.—State v. Davis, 232 W. Va. 398, 752 S.E.2d 429 (2013).
4. Ariz.—State ex rel. Maloney v. Stevens, 79 Ariz. 298, 288 P.2d 1077 (1955).
Wyo.—State v. Spears, 76 Wyo. 82, 300 P.2d 551 (1956).
5. Or.—State v. Pirkey, 203 Or. 697, 281 P.2d 698 (1955).
Statute valid.
La.—State v. Naas, 409 So. 2d 535 (La. 1981).
Tex.—Pierce v. State, 636 S.W.2d 734 (Tex. App. Corpus Christi 1982).
6. § 32.
7. Idaho—State v. Schall, 157 Idaho 488, 337 P.3d 647 (2014).
Mich.—People v. Perkins, 468 Mich. 448, 662 N.W.2d 727 (2003).
W. Va.—State v. Davis, 232 W. Va. 398, 752 S.E.2d 429 (2013).
Felony.
Wis.—State v. Anderson, 2005 WI 54, 280 Wis. 2d 104, 695 N.W.2d 731 (2005).
Protection of accused.
Primary purpose of preliminary examination is to protect accused from hasty, improvident, or malicious prosecution and to discover whether there is substantial basis for bringing prosecution and further denying accused his right to liberty; upon determination that bind over is warranted on at least one count, that purpose has been served.
Wis.—State v. Williams, 198 Wis. 2d 516, 544 N.W.2d 406 (1996).
8. U.S.—Barber v. Page, 390 U.S. 719, 88 S. Ct. 1318, 20 L. Ed. 2d 255 (1968); Jaben v. U.S., 381 U.S. 214, 85 S. Ct. 1365, 14 L. Ed. 2d 345 (1965).
9. Wyo.—Messer v. State, 2004 WY 98, 96 P.3d 12 (Wyo. 2004).
As to discharge of accused, generally, see § 39.

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the clinical interview, counsel is instructed to immediately contact the examining agency to advise of the issuance of this order and forthcoming service upon the agency:

Evaluation Order Service Information

Department of Mental Health

Forensic Evaluation Service Paralegal
S. C. Department of Mental Health
CBHS Forensic Center
7901 Farrow Road
Columbia, S.C. 29203-3220
(803) 935-5540 (Phone)
(803) 935-5544 (Fax)
Email: FES-PARALEGAL@SCDMH.ORG

Department of Disabilities and Special Needs

Office of Clinical Services
Department of Disabilities and Special Needs
Post Office Box 4706
Columbia, S.C. 29240
(803) 898-9694 (Phone)
(803) 898-9660 (Fax)
Email: OBSForensics@ddsn.sc.gov

AND IT IS SO ORDERED.

Presiding Circuit Judge

Carmen T. Mullen

Printed Name of Presiding Circuit Judge

Beaufort

_____, South Carolina

Dated: _____

8/23/19

Dustin Whetsel, Esquire
14th Circuit Solicitor's Office

Prosecutor
Post Office Box 1880

Address
Bluffton, South Carolina 29910

City, State, Zip
843-405-9382

Telephone
dwhetsel@scsolicitor14.org

Email

Courtney Gibbes, Esquire
14th Circuit Public Defender's Office

Defense Counsel
Post Office Box 525

Address
Beaufort, South Carolina 29901

City, State, Zip
843-255-5807

Telephone
cgibbes@bcgov.net

Email

~~George Holmes~~

SC-JICRIM 2-50, Anderson, S.C. Requests to Charge - Criminal, § 2-50

Anderson's South Carolina Requests to Charge - Criminal, 2nd Ed.
Part II. Offenses
Ralph King Anderson, Jr.
2nd Edition, 2012

Rule 2 Preliminary Hearing

~~George Holmes~~
§ 2-50 Perjury and Subornation of Perjury (§ 16-9-10)

Section 16-9-10(A) of the South Carolina Code of Laws provides:
(1) It is unlawful for a person to willfully give false, misleading, or incomplete testimony under oath in any court of record, judicial, administrative, or regulatory proceeding in this State.

(2) It is unlawful for a person to willfully give false, misleading, or incomplete information on a document, record, report, or form required by the laws of this State.

Subsection (C) provides:
A person may be convicted under this section if he induces, procures, or persuades another person to commit perjury or if he commits perjury by his own act, consent, or agreement.

* The crime of subornation of perjury consists of two essential elements:
(1) procuring or inducing one to commit perjury; and
(2) commission of perjury.

George Holmes
George Holmes

However, one may be convicted of an attempt to commit this, even if the witness allegedly suborned did not actually swear falsely.

* S.C. Code Ann. § 16-9-10(A) (2003); see also S.C. Code Ann. § 16-9-10(B) (2003) ("(1) A person who violates the provisions of subsection (A)(1) is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both. (2) A person who violates the provisions of subsection (A)(2) is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than six months or fined not less than one hundred dollars, or both.")

* S.C. Code Ann. § 16-9-10(C) (2003).

* Collins v. Doe, 343 S.C. 119, 539 S.E.2d 62 (Ct. App. 2000), rev'd on other grounds, 352 S.C. 462, 574 S.E.2d 739 (2002) ("... Giving false testimony at trial constitutes the felony of perjury and subjects the perjurer to a fine and/or up to five years imprisonment") (citing S.C. Code Ann. § 16-9-10 (Supp. 1999)).

* In re Diggs, 344 S.C. 397, 403, 544 S.E.2d 628, 632 (2001) ("... [A]ny attorney who provides false information on a notarized CLE [Continuing Legal Education] compliance report commits a false swearing to a tribunal, which constitutes perjury."); State v. Stanley, 365 S.C. 24, 35, 615 S.E.2d 455, 460 (Ct. App. 2005) ("Giving false information in a document or report required by the laws of this State is perjury." (citing S.C. Code Ann. § 16-9-10(A)(2) (2003)); see also State v. Davis, 354 S.C. 348, 580 S.E.2d 778 (Ct. App. 2003) (discussing whether allegedly exculpatory information was intentionally or recklessly withheld from the magistrate, rendering a search warrant defective); State v. Jones, 331 S.C. 228, 500 S.E.2d 499 (Ct. App. 1998) (discussing affiant's false statement as basis for finding

insufficient probable cause).

* Burns v. Clayton, 237 S.C. 316, 117 S.E.2d 300, 308-09 (1960) ("... Although the crime of subornation of perjury was not consummated, the attempt to commit it was in itself a crime, being an act done with the intention of preventing the due course of justice.")

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End of Document

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~~George Holmes~~

Rule 2 Preliminary hearing

~~George Holmes~~

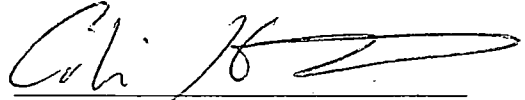
~~George Holmes~~

Rule 2 Preliminary hearing - ~~George Holmes~~

~~George Holmes~~

George Holmes George Holmes

May 26, 2022



Colin Hamilton, Esq.

Bar No. 104439

Assistant Public Defender

Post Office Box 525

1905 Duke Street, Room 210

Beaufort, SC 29902

Attorney for Appellant

Other Counsel of Record:

Jared Shedd, Esq.

Assistant Solicitor, 14th Judicial Circuit

Post Office Box 1880

Bluffton, SC 29910

Attorney for Respondent

The State v. George Holmes, Appellate Case No. 2022-000728

ARREST WARRANT

2018A0710200400

STATE OF SOUTH CAROLINA

County/ Municipality of

Beaufort

THE STATE 183324618
against

George Holmes

Address:

Phone: _____ SSN: _____
Sex: **M** Race: **B** Height: **5 7** Weight: **240**
DL State: **SC** DL #: _____
DOB: _____ Agency ORI #: **SC0070000**
Prosecuting Agency: **Beaufort County Sheriff's Office**
Prosecuting Officer: **Jonathan M Hewitt - S00393**
Offense: **Burglary / Safecracking**

Offense Code: **0141**
Code/Ordinance Sec: **16-11-0390**

This warrant is **CERTIFIED FOR SERVICE** in the
 County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge _____
Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant **George Holmes** on **12/28/18**

Signature of Constable/Law Enforcement Officer _____

RETURN WARRANT TO:
Beaufort County General Sessions
PO Box 1128
102 Ribaut Road, Rm. 208
Beaufort, SC 299011128

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
Beaufort)

AFFIDAVIT ORIGINAL Form Approved by S.C. Attorney General April 21, 2010 SCCA 318

Personally appeared before me the affiant **Jonathan M Hewitt** who being duly sworn deposes and says that defendant **George Holmes** did within this county and state on or about **12/28/2018** violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of **Beaufort**) in the following particulars:

DESCRIPTION OF OFFENSE: Burglary / Safecracking

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on December 28th, 2018, at approximately 0128 hours, the defendant, one George Holmes did knowingly, willingly and unlawfully violate the laws of the State of South Carolina in that he did commit the offense of Safecracking. The defendant unlawfully broke into the Navy Federal Credit Union ATM. Upon gaining entry attempted to force entry into the ATM box to steal the currency located within. The incident was captured on surveillance footage, Holmes was positively identified and a BCSSO Tracking Team was recalled and tracked to the location he was found. This incident did occur at 102 Sea Island Parkway, Beaufort, Beaufort County, South Carolina and within the jurisdiction of the Beaufort County Sheriff's Office. The Affiant and others are witness to the same.

Signature of Affiant _____

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
Beaufort)

Affiant's Address **2001 Duke St**
Beaufort, SC 29902-

Affiant's Telephone _____

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about **12/28/2018** defendant **George Holmes** did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of **Beaufort**) as set forth below.

DESCRIPTION OF OFFENSE: Burglary / Safecracking

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on **12/28/2018**

Signature of Issuing Judge _____ (L.S.)
Judge's Address **104 Ribaut Rd**
Beaufort, SC 29901-2207
Judge's Telephone **(843)255-5700**

Mark Francis Fitzgibbons
Judge Code: **7060**

Issuing Court: Magistrate Municipal Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL

Certified - A True Copy

Signature of Clerk of Court
Jerrri Ann Rosebeau - Clerk of Court
Beaufort County, SC - Jennifer Pettif

The State v. George Holmes, Appellate case No. 2022-000728

Code of Laws of South Carolina 1976 Annotated
Title 16: Crimes and Offenses
Chapter 11: Offenses Against Property
Article 5: Burglary, Housebreaking, Robbery and the like

Code 1976 § 16-11-390
§ 16-11-390. Safecracking.

PLEASE SEE
Arrest Warrant: 2018A0710200400

16-11-0390

Currentness

It is unlawful for a person to use explosives, tools, or any other implement in or about a safe used for keeping money or other valuables with intent to commit larceny or any other crime.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

Credits

HISTORY: 1962 Code § 16-337; 1952 Code § 16-337; 1942 Code § 1150; 1932 Code § 1150; Cr. C. '22 § 44; Cr. C. '12 § 191; 1904 (14) 396; 1907 (25) 580; 1955 (49) 65; 1993 Act No. 184, § 172.

Notes of Decisions (10)

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Code 1976 § 16-11-390, SC ST § 16-11-390
Current through 2019 Act No. 90, subject to technical revisions by the Code Commissioner as authorized by law before official publication.

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I. Mr. George Holmes did not commit the offense of Safecracking
Dismiss the offense of Safecracking
Notes Of Decisions (10)
In general indictment: 2018A0710200400 16-11-0390

GH It is not essential to constitute a safecracker that he shall be successful in his attempt to break open the safe. Miller v. State of S. C. (D.C.S.C. 1970) 309 F.Supp. 1287.

GH "Safetampering" falls within the crime defined as "safecracking" in this section [Code 1962 § 16-337]. Miller v. State of S. C. (D.C.S.C. 1970) 309 F.Supp. 1287. Burglary 2
George Holmes

GH Defendant's possession, following larceny of safe, of property of the nature stolen, with his admission to others that he had obtained them from the safe in subject, were sufficient to sustain his conviction of the offense of safecracking. State v. Blue (S.C. 1975) 264 S.C. 468, 215 S.E.2d 905. Burglary 45
George Holmes

GH Use of a hammer to remove a safe in one county, although it was not opened until carried into a second county, constituted a violation of this section [Code 1962 § 16-337], such as to give a court of the first county jurisdiction over the case. Shelnut v. State (S.C. 1965) 247 S.C. 41, 145 S.E.2d 420.

GH The subject of the act from which this section [Code 1962 § 16-337] is taken was expressed in the title thereof. State v. O'Day (S.C. 1906) 74 S.C. 448, 54 S.E. 607.

Constitutional Issues

GH Ten year minimum sentence for safecracking with tools does not constitute cruel and unusual punishment. Stockton v. Leeke (S.C. 1977) 269 S.C. 459, 237 S.E.2d 896.

GH This section [Code 1962 § 16-337] is not unconstitutional by reason of the fact that life imprisonment is directed upon conviction if the jury does not recommend mercy, and not less than ten years' imprisonment is directed when the jury does recommend mercy. State v. Haulcomb (S.C. 1973) 260 S.C. 260, 195 S.E.2d 601, appeal dismissed 94 S.Ct. 229, 414 U.S. 886, 38 L.Ed.2d 134.
George Holmes George Holmes

GH The contention that this section [Code 1962 § 16-337] is not sufficiently definite to place a person of common intelligence on notice as to what is prohibited is clearly without merit. The offense is designated in bold-faced letters - "SAFECRACKING." State v. Haulcomb (S.C. 1973) 260 S.C. 260, 195 S.E.2d 601, appeal dismissed 94 S.Ct. 229, 414 U.S. 886, 38 L.Ed.2d 134. Larceny 2

GH Indictment 2018A0710200400
Where an indictment on its face specifically sets forth the charge of safecracking as the fourth count, its plain language is not to be ignored merely because on the outside of the indictment the several counts are tabulated in a different order. Crady v. State (S.C. 1966) 248 S.C. 522, 151 S.E.2d 670.
I'm Not guilty GH

Questions for Jury

GH In a prosecution for armed robbery and safecracking, the court improperly denied defendant's motion for directed verdict.
George Holmes

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0-30 YEARS

STATE GEORGE HOLMES

INDICTMENT/CASE#: 2019GS0700040

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS)

COUNTY OF BEAUFORT)

STATE VS.)

INDICTMENT/CASE#: 2019GS0700040

GEORGE HOLMES)

A/W#: 2018A0710200400

AKA:)
Race: Black Sex: Male Age: 34)

Date of Offense: 12/28/2018

DOB:)
SS#: [REDACTED])

S.C. Code §: 16-11-390

Address:)

CDR Code #: 0141

City, State, Zip:)

SENTENCE SHEET

DL#*)
SID#)

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Safecracking I did Not Crack No Safe open George Holmes

In violation of § 16-11-390 of the S.C. Code of Laws, bearing CDR Code # 0141

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Correction County Detention Center,

for a determinate term of 20 days/months/years/Time Served; Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of 15 days/months/years/Time Served and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for 5

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. 505 days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

SCCA/217 (07/2021)

[Signature]
Jeri Ann Roseneau - Clerk of Court
Beaufort County, SC - Jennifer Petroff

George Holmes #289114
Beaufort, Da
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Ridgeland, SC 29936

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