

8-6-2022

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

14th Circuit
ARREST WARRANTS
#2018A0710200400
2018A0710200399

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AUG 11 2022

SC Court of Appeals

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S.C. SUPREME COURT

ORDER

On 2-1-2019, At my Preliminary hearing at Beaufort Magistrate Ct. The Presiding Judge was Mark Francis Fitzgibbons. Jeffrey Stephens, was my 14th Circuit Public Defender. I Mr. George Holmes, I'd like to introduced the tape recording of Preliminary hearing date 2-1-2019 above, as facts Evidence, DNA, Proof of witness when the incident occurred Under Oath... The Affiant Jonathan M Hewitt, has Committed Perjury-N-Subornation, Affiant false Statement, testimony as basis for finding in sufficient Probable Cause. He stated: ~~that~~ I Mr. George Holmes did crack the safe open. B.C.S.O. affiant: Jonathan M Hewitt, has Committed Perjury by giving false misleading in this State and incomplete testimony Under OATH in the Courts of record Judicial, administrative -N- regulatory Proceeding in this State of Creditability VU 316-11-390. Safecracking. SC ST In general; Miller v. State of S.C. (D.C.S.C. 1970) 309 F. Supp. 1287; Indictment: 2018A0710200400...

Thanks

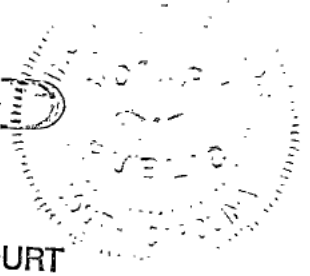
With Kindest Regards I'm *George Holmes*
George Holmes
George Holmes

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 8th Day of August
2022. Virginia Robinson
NOTARY PUBLIC
STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES April 21, 2031

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S.C. SUPREME COURT



Office of the Public Defender
Fourteenth Judicial Circuit
Stephanie Smart-Gunings, 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 & WASPER 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

The State v. George Holmes, Appellate Case No. 2022-000728
 George Holmes
 Inmate ID No.: 289114
 Kirkland Correctional Center
 4344 Broad River Road
 Columbia, SC 29210

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 §21. Nature of Preliminary hearing, Ineffective Assistant of Council §22 C.S.S. Criminal Procedure? 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

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S.C. SUPREME COURT

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

AW#: 2018A0710200399

AKA: Race: Black Sex: Male Age: 34

Date of Offense: 12/28/2018

DOB: SS#: [REDACTED]

S.C. Code §: 16-11-312(B)(3)

Address:

CDR Code #: 0086

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

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



PATRICK
LAW FIRM

RE: The State

January 25, 2021

v.
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,

Plaintiff,

vs.

GEORGE HOLMES,

Defendant.

COURT OF GENERAL SESSIONS
FOURTEENTH JUDICIAL CIRCUIT
WARRANT NO.'s 2018A10200399-400

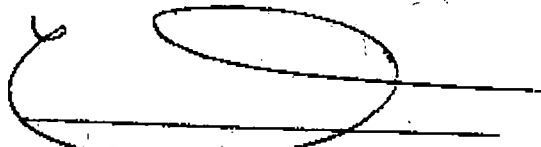
**CONSENT ORDER FOR SUBSTITUTION
OF COUNSEL**

WHEREAS, it appears that the attorney for Defendant above listed, is to be substituted to Ashley Cornwell for Charles Patrick, III as his attorney of record for medical reasons.

WHEREAS, Charles Patrick, III is in agreement with the substitution, as memorialized by his signature below.

THEREFORE Charles Patrick, III is now replaced as attorney of record by Ashley Cornwell,

AND, IT IS SO ORDERED!



Presiding Judge
Fourteenth Judicial Circuit

Jan 20, 2021

WE CONSENT:



Charles Patrick, III
Attorney for Defendant



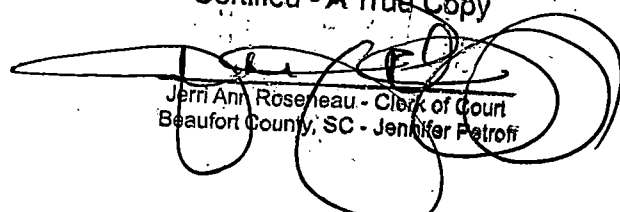
Ashley Cornwell
Attorney for Defendant

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S.C. SUPREME COURT

Certified - A True Copy



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

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF BEAUFORT 2022 MAY 16 AM 9:36) FOURTEENTH JUDICIAL CIRCUIT

JERRI ANN ROSENEAU
BEAUFORT COUNTY, SC
CLERK OF COURT

STATE OF SOUTH CAROLINA)
CASE NO(s): 2019GS0700039-00040

v.)

GEORGE HOLMES,)

Defendant.)

DEFENDANT'S PROPOSED WITNESS LIST

~~George Holmes, Jeffrey Stephens~~

- 1. George Holmes
- 2. Jeffrey Stephens

§21. Nature of Preliminary hearing

Rule 12 →

Rule 12 →

was my Public Defender, on 2-1-2019, At my Preliminary hearing Fourteenth Judicial Circuit at Beaufort Magistrate Court.

~~George Holmes~~

*George Holmes
George Holmes*

Thanks
Respectfully submitted,

*George Holmes
George Holmes*

Colin Hamilton

Colin J. Hamilton
14th Circuit Public Defender's Office
Attorney for Defendant

Beaufort, South Carolina
May 16, 2022

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S.C. SUPREME COURT

Certified - A True Copy

Jerr Ann Roseneau
Jerr Ann Roseneau - Clerk of Court
Beaufort County, SC - Kristin Kesten

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

ARREST WARRANT

2018A0710200400

STATE OF SOUTH CAROLINA
 County/ Municipality of
 Beaufort

THE STATE 189324618
 against

George Holmes

Address:

Phone: SSN: [REDACTED]
 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:

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

AFFIDAVIT ORIGINAL Form Approved by S.C. Attorney General April 21, 2009 SCCA 113

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 BCSO 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.))
Mark Francis Fitzgibbons)
 Judge Code: **7060**)

Judge's Address **104 Ribaut Rd**
Beaufort, SC 29901-2207

Judge's Telephone **(843)255-5700**

Issuing Court: Magistrate Municipal Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL

RETURN

A copy of this arrest warrant was delivered to defendant on **12/28/2018** by **[Signature]**

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 ORIGINAL ORIGINAL ORIGINAL

9 Statutes: Intent
 10 Statutes: Plain language; Plain ordinary
 Common, or literal meaning
 11 Statutes: In general; Factors considered

Certified - A True Copy

Jerri Ann Rosereau - Clerk of Court
 Beaufort County, SC - Jennifer Peaboff

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

v.

*I did not
Commit the*

Respondent.

offense of Safe Cracking

Appellant.

GEORGE HOLMES,

*George Holmes
George Holmes*

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

NOTICE OF APPEAL

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.

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

*George Holmes
George Holmes*

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S.C. SUPREME COURT

[SIGNATURE PAGE TO FOLLOW]

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,

Respondent.

v.

GEORGE HOLMES,

Appellant.

PROOF OF SERVICE

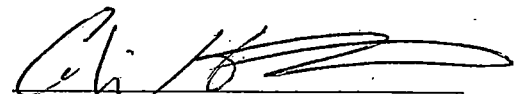
I certify that I have served the Notice of Appeal on the below listed respondents by depositing a copy of it in the United States Mail, postage prepaid, on May 26, 2022.

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

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S.C. SUPREME COURT

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))

The State v. George Holmes, Appellate Case No. 2022-000708

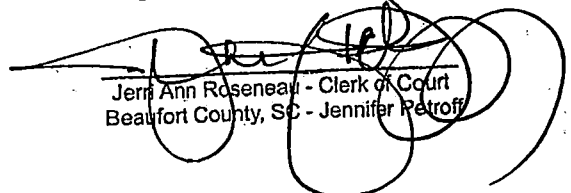
This matter is before me for an order requiring defendant, George Holmes, charged with one (1) count of Burglary, 2nd Degree (Non-Violent), one (1) count of Safecracking, and one (1) count of Indecent Exposure, to submit to an evaluation for competency to stand trial pursuant to State v. Blair, 275 S.C. 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


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

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

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

§ 21. Nature of preliminary hearing, 22 C.J.S. Criminal Procedure and Rights of...

§ 21. Nature of preliminary hearing, 22 C.J.S. Criminal Procedure and Rights of...

Rule 2 Preliminary Hearing. ~~ON~~ 2-1-2019, At 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 E. Mische Buro, J.D., of the staff of the National Legal Research Group, Inc.; Elizabeth M. Boser, J.D.; M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Paul M. Colloff, J.D.; Cecily Fuhr, 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 Holben, J.D.; Alan J. Jacobs, J.D.; John Kimpfsten, J.D.; Julianna Frisch Kittelson, J.D.; Jack K. Levin, J.D.; William Lindsley, J.D.; Anne E. Melley, J.D., LL.M., of the staff of the National Legal Research Group, Inc.; Karl Oakes, J.D.; Jeffrey J. Shampo, J.D.; and Eric C. Surette, J.D.

George Holmes Beaufort 14th Judicial Circuit
George Holmes BFT Magistrate Court

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

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

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

D. Preliminary Hearing or Examination

1. In General

Rule 2 Preliminary Hearings
Rule 2 Preliminary Hearing

George Holmes
George Holmes

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

Westlaw 19 2019 Thomson Reuters. No Claim to Orig. U.S. Govt. Works

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.—Conn. 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. Mahoney 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.

WESTLAW 19 2019 Thomson Reuters. No claim to original U.S. Government Works.

WESTLAW 19 2019 Thomson Reuters. No claim to original U.S. Government Works.

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

I'm Not guilty

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)

Code 1976 § 16-11-390, SC ST § 16-11-390
COPYRIGHT (C) 2019 BY THE STATE OF SOUTH CAROLINA
Current through 2019 Act No. 90, subject to technical revisions by the Code Commissioner as authorized by law before official publication.

End of Document

I Mr. George Holmes did not commit the offense of Safecracking
Dismiss the offense of Safecracking
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.

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
George Holmes
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GH Indictment 2018A0710200400 I'm Not guilty GH
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.

Questions for Jury

GH In a prosecution for armed robbery and safecracking, the court improperly denied defendant's motion for directed verdict.
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
Rule 2 Preliminary Hearing

§ 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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~~_____~~
Rule 2 Preliminary hearing
ON 2-1-2019, At my Preliminary hearing
at Beaufort Magistrate Court.
14th Judicial Circuit

~~_____~~
Rule 2 Preliminary hearing - ~~_____~~

The State v. George Holmes, Appellate
Case No. 2022-00728

George Holmes George Holmes

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