

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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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,

States non violent

v.

*I did not
commit the*

Respondent.

offense of Safe Cracking

Appellant.

GEORGE HOLMES,

*George Holmes
George Holmes*

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.

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

*George Holmes
George Holmes*

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**

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

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 Release*

1. Mr. Holmes shall be released on his own recognizance. *Non-violent release*
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.

March 26, 2020

Judge Carmen T. Mullen

Certified - A True Copy

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

FILED
MAR 25 PM 2:19
JENNIFER PETROFF
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

Department of Disabilities and Special
Needs

(Intellectual Disability or Related Disability)

GEORGE HOLMES,
Defendant.

2019 MAY 28 PM 2:26
JERRI ANN ROSENEAU
CLERK OF COURT
BEAUFORT COUNTY, S.C.

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

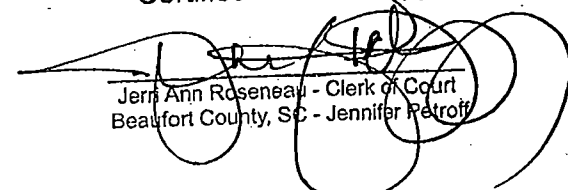
This matter is before me for an order requiring defendant, George Holmes, charged with one (1) count of Burglary, 2nd Degree (Non-Violent) one (1) count of Safecracking, and one (1) count of Indecent Exposure, to submit to an evaluation for competency to stand trial pursuant to State v. Blair, 275 S.C.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



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

STATE GEORGE HOLMES

INDICTMENT/CASE#: 2019GS0700039

0-15 YEARS

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BEAUFORT

STATE

INDICTMENT/CASE#: 2019GS0700039

VS.

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

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 1 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 _____

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

0-30 YEARS

STATE

GEORGE HOLMES

INDICTMENT/CASE#: 2019GSO700040

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BEAUFORT

STATE

INDICTMENT/CASE#: 2019GSO700040

VS.

GEORGE HOLMES

A/W#: 2018A0710200400

AKA:

Date of Offense: 12/28/2018

Race: Black Sex: Male Age: 34

S.C. Code §: 16-11-390

DOB: SS#: [REDACTED]

CDR Code #: 0141

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: 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 1 years

and/or to pay a fine of \$ 15; provided that upon the service of 15 days/months/years/Time Served and or payment of \$ 5; 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)

Printed At the Copy
[Signature]
Jerri Ann Roseneau - Clerk of Court
Beaufort County, SC - Jennifer Petroff

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

ARREST WARRANT

2018A0710200400

STATE OF SOUTH CAROLINA

County/ Municipality of

Beaufort

THE STATE 18S324618

against

George Holmes

Address:

Phone: SSN: [REDACTED]

Sex: **M** Race: **B** Height: **5 7** Weight: **240**

DL State: **SC** DL #:

DOI 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 29901 1128

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)

County/ Municipality of)

Beaufort)

AFFIDAVIT

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

9 Statutes: Intent

0 Statutes: Plain language; Plain ordinary

Common, or literal meaning

11 Statutes: In general; factors considered

Certified - A True Copy

Jerri 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

I'm Not guilty GH

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
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
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

GH Defendant's possession, following is a violation 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

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. 507.

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

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.
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George Holmes #8114
Beaufort Dorm B-B-05
Ridgeland CI
P.O. Box 2039
Ridgeland, SC 29936

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The SC Court of Appeals
V. Claire Allen
1220 Senate Street
Columbia, SC 29201

#289114

LEGAL MAIL

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