

STATE OF SOUTH CAROLINA IN THE
- COURT OF APPEALS -
APPEAL FROM YORK COUNTY

HONORABLE WILLIAM A. MCKINNON 16th CT. COURT
PRO SE BRIEF OF APPELLANT CASE NO. 2021-00134

MR. BRANDY VERNON HARRIS

v.

THE STATE OF SOUTH CAROLINA

APPELLATE CASE NO. 2021-001341

PRO SE BRIEF OF APPELLATE

RECEIVED

AUG 29 2022

SC Court of Appeals

Brandy Harris

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-ISSUE'S IN QUESTION-

CAN ANYONE BE HELD FOR AN MISDEMEANOR AFTER THE 90 DAY LIMIT, AS THE BASTARD CHILD WITH IN WRONGFUL JURISDICTION OF GENERAL SESSION COURT? BY THE WAY THE C D R CODE IS AN ERROR!

Brandy Harris

- CASE FACTS -

FRAMED ISSUES TO MAXIMIZE THE PERSUASIVENESS OF THE APPELLATE ARGUMENTS.

1. INDICTMENT #3812 PRESENTED DOMESTIC V. SECOND & DOMESTIC V. 3rd SAME INDICTMENT! AND NEVER SET AN COURT DATE FOR THE MISDEMEANOR WITH IN THE ROCK HILL MUNICIPAL COURT!

2. FROM TRANSCRIPT PAGE # 120 MR. ZUSCHKE: IN THE INDICTMENT, IT'S VERY SPECIFIC ABOUT LIMITING ELECTRONICS DEVICE. I THINK IT'S VERY IMPORTANT IN THIS CASE, PARTICULARLY SINCE THERE'S MORE DEFENSE AROUND THE CELL PHONE THAN THERE IS AROUND THE FRONT DOOR HERE, IF YOU CROSS THIS PART WHERE IT SAYS ACCESS TO CONTACT LAW ENFORCEMENT OR EMERGENCY. I WANT TO MAKE SURE IT HAS THE LANGUAGE ABOUT USE OF ELECTRONICS DEVICE!

3. FROM TRANSCRIPT PAGE # 120 MRS. DESCH: HE'S RIGHT ABOUT INDICTMENT!

1. FROM TRANSCRIPT PAGE # 119 MR. ZUSCHKE: YES, YOUR HONOR. I BELIEVE THEY LIMITED THEMSELVES BY ONLY INDICTING TO THE ARGUMENT ABOUT ELECTRONIC DEVICE. IT TAKING PLACE DURING BURGLARY, KIDNAPPING, I THINK THEY ARE LIMITED NEXT PAGE.

FROM ARGUING THAT AND IT SHOULD NOT BE PART OF THE JURY CHARGE AS IT WAS INDICTED BY MRS. MILLER!

5. FROM TRANSCRIPT PAGE #164 MR. ZUSCHKE: HE DID TESTIFY THAT HE COULDN'T SEE!

6. FROM TRANSCRIPT PAGE #164 COURT: HE DID TESTIFY THAT HE COULDN'T SEE!

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- PROCEDURAL HISTORY -

NO DIRECT VERDICTS ON 3 CHARGES, DENIED BY JUDGE MCKINNON AND PRELIMINARY HEARING WAS NOT GIVEN THEREFORE THIS CASE REPRESENTS PROCUREMENT!

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RELATED CASE LAW REFERENCE APPELLANT JUDGE DISCRETION NEEDED

THE ADMISSION AND EXCLUSION OF EVIDENCE LARGELY
A MATTER OF TRIAL JUDGE DISCRETION AND HIS RULING
WILL NOT BE OVER TURNED ON APPEAL UNLESS THE
MANIFESTLY ABUSES HIS DISCRETION AND THE DEFEN
DANT SUFFERED PREJUDICE AS A RESULT. STATE V.
THOMPSON 305 S.C. 496, 409 S.E. 2d 420 (S.C. APP (1991))
STATE V. GROOME 274 S.C. 189, 262 S.E. 2d 31 (1980)
STATE V. ~~W~~ JOHNSON 271 S.C. 485 248 S.E. 2d 313
(1978)

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RELATED CASE LAW REFERENCE APPELLANT JUDGE
DISCRETION NEEDED

IF THERE IS ANY DIRECT OR SUBSTANTIAL CIRCUMSTANTIAL EVIDENCE REASONABLY TENDS TO PROVE THE DEFENDANT'S GUILT OR FROM WHICH GUILT MAY BE FAIRLY AND LOGICALLY DEDUCED, THE APPELLATE MAY COURT MAY REVERSE THE TRIAL COURTS DENIAL OF A MOTION FOR A DIRECTED VERDICT ONLY IF THERE IS NO EVIDENCE TO SUPPORT THE COURTS RULING
STATE V. GASTER 349 S.C. 545, 564 S.E. 2d 87 (2002)

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RELATED CASE LAW REFERENCE APPELLANT JUDGE
DISCRETION NEEDED

STATE V. MEANS 626 S.E. 2d 348, 367 S.C. 374 WHEN THE STATE MOVES BEFORE TRAIL TO AMEND AN INDICTMENT PREVIOUSLY ISSUED, THE COURT SHOULD DETERMINE WHETHER THE PROPOSED AMENDMENT CHANGES THE NATURE OF THE OFFENSE SET FORTH IN THE ORIGINAL INDICTMENT!, IF IT DOES, THE MOTION TO AMEND MUST BE DENIED, UNLESS THE AMENDED INDICTMENT STATES A LESSER INCLUDED OFFENSE OF THE CRIME CHARGED IN THE ORIGINAL INDICTMENT!

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RELATED CASE LAW REFERENCE APPELLANT JUDGE DISCRETION NEEDED

STATE V. HALL 280 S.C. 74, 310 S.E. 2d 429 (1983) CONFINEMENT CAN CONSTITUTE THE SEPARATE OFFENSE WHEN IT IS INCIDENTAL TO THE COMMISSION OF ANOTHER CRIME. KIDNAPPING STATUTES DOES APPLY TO UNLAWFUL CONFINEMENT OR MOVEMENTS INCIDENTAL TO THE COMMISSION OF ANOTHER. SEE ALSO MODEL PENAL CODE § 212.1 (2000) THEY MUST FIND I HAD THE REQUISITE INTENT TO COMMIT SEPARATE CHARGES + OFFENSES.

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RELATED CASE LAW REFERENCE APPELLANT JUDGE
DISCRETION NEEDED

THE LAW PROSCRIBES ONLY TWO FORMS OF CRIMINAL DOMESTIC VIOLENCE NON-AGGRAVATED AND C.D.V OF AN HIGH AGGRAVATED NATURE! C.D.V.H.A.N REQUIRES THE STATE TO PROVE ONE ELEMENT NOT CONTAINED IN A C.D.V CHARGE. NAMELY AT LEAST ONE ELEMENT OF THE COMMON LAW CRIME OF A.B.H.A.N. SECOND. THE INDICTMENT WAS IMPROPERLY AMENDED NO LONGER RAISES A QUESTION OF SUBJECT MATTER JURISDICTION. IT INSTEAD RAISES A QUESTION WHETHER A DEFENDANT PROPERLY RECEIVE NOTICE NOTICE HE WOULD BE TRIED FOR A PARTICULAR CRIME. KIDNAPPING CHARGE IS VERY IMPROPER AND AMBIGUOUS! SHOULD NOT BE PART OF THE JURY VERDICT!

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RELATED CASE LAW REFERENCE APPELLANT JUDGE DISCRETION NEEDED

AMENDMENTS USUALLY ARE PERMITTED FOR PURPOSE OF CORRECTING AN ERROR OF FORM, SUCH AS A SCRIVINERS OR CLERICAL ERROR. 354 S.C. AT 155, 580 S.E. 2d AT 122 THUS A MOTION TO AMEND AN INDICTMENT SHOULD BE GRANTED WHEN THE PROPOSED AMENDMENT DOES NOT CHANGE THE NATURE OF THE OFFENSE OR AFFECT THE SUFFICIENCY OF THE INDICTMENT. SEE e.g. STATE V. BATSON 261, S.C. 128, 132, 198, S.E. 2d 517, 519, (1973)

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RELATED CASE LAW REFERENCE APPELLANT JUDGE
DISCRETION NEEDED

DOE V. STATE, 421 S.C. 490, 808 S.E. 2d 807 (S.C. 2017)
SEE, E.G. S.C. CODE ANN. § 16-25-20 (SUPP. 2017)
(PROVIDING: (1) ENHANCED PENALTIES FOR ONE
CONVICTED OF SUBSEQUENT DOMESTIC VIOLENCE
OFFENSES; (2) DEGREES OF DOMESTIC VIOLENCE
OFFENSES; (3) PENALTIES FOR A VIOLATIONS OF
AN ORDER OF PROTECTION); id § 16-25-30 (PROHIBIT
ING POSSESSION OF A FIRE ARM BY A PERSON WHO
HAS BEEN CONVICTED OF DOMESTIC VIOLENCE OR
DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED,
id § 16-25-65 (OUTLINING OFFENSE OF DOMESTIC
A HIGH AND AGGRAVATED NATURE). UNLESS IT
CONSTITUTES THE OFFENSE OF CRIMINAL DOMESTIC
VIOLENCE OF A HIGH AND AGGRAVATED NATURE,
CRIMINAL DOMESTIC VIOLENCE IS A MISDEMEANOR
§ § 16-25-30 TO -65.

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RELATED CASE LAW REFERENCE APPELLANT JUDGE
DISCRETION NEEDED

RULE 3 SOUTH CAROLINA CRIMINAL PROCEDURE
DISPOSITION OF ARREST WARRANT! (c) ACTION ON WARRANT!
WITHIN (90) DAYS AFTER RECEIVED OF AN ARREST WARRANT FROM THE CLERK OF COURT, THE SOLICITOR SHALL TAKE ACTION ON THE WARRANT BY (1) PREPARING AN INDICTMENT FOR PRESENTMENT TO THE GRAND JURY. (D) EXTENSION OF TIME. THE SOLICITOR MAY PETITION CIRCUIT COURT FOR AN ORDER DELAYING ACTION ON THE WARRANT, AS SET FORTH ABOVE, FOR SUCCESSIVE (90) DAYS PERIODS IF THE CIRCUIT COURT SPECIFICALLY FIND GOOD CAUSE FOR SUCH DELAY FOR EACH SUCCESSIVE (90) DAYS

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RELATED CASE LAW REFERENCE APPELLANT JUDGE
DISCRETION NEEDED

DISPOSITION OF ARREST WARRANT'S (C) ACTION ON WARRANTS WITHIN (90) DAYS. KIDNAPPING CHARGE, AND D.V. 3rd D.V. 2nd CHARGES IN THE SAME OFFENSE. RAY MURPHY AND MRS. MILLER PROSECUTOR FROM MUNICIPAL ROCK HILL COURT GAINED AN TACTICAL ADVANTAGE WITHIN S.C. CODE OF LAW 16-25-20 BY EXCEEDING THE 90 DAY LIMIT. THIS TATIC WAS USED TO INDICT BRANDY HARRIS ON 12-10-2020 BEFORE THE BOND HEARING 12-14-2020. BASICALLY I WAS HELD ON AN MISDEMEANOR, THEREFORE 16 CIRCUIT COURT GENERAL SESSION HAD NO SUBJECT MATTER JURISDICTION! I WAS NOT GIVEN AN PRELIMINARY HEARING AND THEY DID NOT PROVE ONE ELEMENT OF THE COMMON LAW CRIME A.B.H.A.V. SECOND. INDICTMENT'S 3812,0095 WERE SIGNED BY MRS MILLER NOT BY GENERAL SESSION 16th CIRCUIT COURT PROSECUTOR MRS. DESCH

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