

State of South Carolina

IN THE COURT OF APPEALS

Aiken County

Sha'kel Raheem Dixon
#385800

Appellants Brief

RECEIVED

OCT 31 2022

SC Court of Appeals

v.

State of South Carolina

Statement of Claim

Now Comes Appellant sha'kel Raheem with Brief in support of Appeal concerning ineffective assistance of counsel as in accordance with the case of Strickland v. Washington and Hill v. Lockhart. Counsel was ineffective and as a result of this fact Appellant was convicted based upon an invalid indictment causing conviction to be void and case should be vacated due to this fact. Indictment by grand jury was invalid violated due process and sentence imposed is void and must be vacated as a matter of law see Body of grand jury indictment Exhibit (A) which states that on Nov 11, 2019 under oath in this indictment that at the Court of General Session in which convened on Nov 11, 2019 and indicted Appellant on this date of Nov 11, 2019 according to body of indictment, for the charges of murder and Possession of a weapon during violent crime and on face of indictment it states indictment for murder and Possession of a weapon during violent crime filed by clerk of court dated: Nov 7, 2019 along with true bill and grand jury foreman signature dated and filed by the clerk of court also dated: Nov 7, 2019. Thus showing it was impossible for this to have taken place in this order how could grand jury indict Appellant 4 days before grand jury even convened on Nov 11, 2019 as stated within body of Appellant indictment there is no way this could have happen thus causing Appellant indictment to be invalid. Therefore based upon this fact counsel was ineffective for failing to object to this and move to have indictments dismissed as well as have charges dismissed as a result of indictments being invalid thus violation of due process, S.C Const. Art. I § 11, S.C Code Ann § 17-19-10 Appellant request that this Honorable Court vacate sentence based upon these stated facts. The United States Constitution 5th Amendment provides for the criminal prosecution only on basis of grand jury indictment. State v. Johnston 510 S.E2d 423 (1999). The Supreme Court of South Carolina stated: Generally in a criminal prosecution the trial court acquires subject matter jurisdiction based upon a valid indictment and a court violates due process without conviction based upon a valid indictment. A conviction obtained without the presentment of a valid grand jury indictment would be void on appeal. S.C Const. Art. I § 11 Presentment or indictment states: No person may be held to answer for any crime, the jurisdiction over which is not within the magistrate Court unless on a presentment of a grand jury before standing trial.

Statement of Claim

For a crime the jurisdiction of the county where the crime has been committed. Clair v. State 478 SE2d 54 (1996) invalid conviction without valid indictment case vacated there cause. Ex parte US 53 S.Ct 129 (1932) The Supreme Court of the United States stated: That it reasonably cannot be doubted that, in the court to which the indictment is returned, the finding of an indictment, fair upon its face, by a properly constituted grand jury, conclusively determines the existence of probable cause for the purpose of holding the accused to answer. Accuse cannot answer charge without due process, and valid indictment to convict him. Without a valid grand jury indictment to convict Appellant as in accordance with S.C Const. Art. 1 § 11, S.C Code Ann §§ 17-19-10, there is no probable cause for conviction thus violation of Due Process, and Probable Cause as well as ineffective assistance of trial counsel for allowing this to take place as in accordance with Strickland v. Washington, and Hill v. Lockhart, S.C Rules of Professional Conduct Rule 3.8 Special Responsibilities of a Prosecutor States: The prosecutor in a criminal case shall (a) refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause. Without valid indictment by grand jury there is no probable cause to support conviction. US v. Williams 112 S.Ct 1735 (1992) The Supreme Court of the United States stated: A grand jury proceeding as an ex parte investigatory proceeding to determine whether there is probable cause to believe a violation of the criminal laws has occurred.

CASES, STATUTES, AND CONSTITUTIONAL LAWS IN SUPPORT OF CASE

- (1) Clair v. State 478 SE2d 54 (1996), (2) Phillips v. State 314 SE2d 313 (1984), (3) S.C. Const. Art 1 § 11,
- (4) State v. Daniel McNeil 445 SE2d 461 (1994), (5) Richard Campbell v. State 535 SE2d 928 (2000),
- (6) State v. Marcus Antonio Grim 533 SE2d 329 (2000), (7) Moses Anderson v. State 527 SE2d 398 (2000),
- (8) S.C Code Ann §§ 17-23-130, (9) S.C. Code Ann §§ 17-23-140⁽¹⁰⁾, (10) State v. Kevin L. Jones 536 SE2d 396 (2000), (11) State v. Jimmy Lee Ellison 586 SE2d 596 (2003), (12) State v. Smalls 613 SE2d 754 (2005),
- (13) Plante v. State 446 SE2d 437 (1994), (14) State v. Cody 180 SC 417 (1936), (15) Murdock v. State 417 SE2d 543 (1992), (16) The State v. Green 539 SE2d 419 (2002), (17) Bailey v. State 709 SE2d 671 (2011), (18) State v. Johnston 510 SE2d 423 (1999), (19) State v. Dudley 581 SE2d 171 (2003), (20) State v. Funderbark 191 SE2d 520 (1972), (21) Fifth Amend to the United States Constitution, (22) 14th Amendment to the United States Constitution Due Process, (23) State v. Jerome Byner 403 SE2d 126 (1991),⁽²⁴⁾ S.C Code Ann § 17-19-10,⁽²⁵⁾ State v. Sweet 70 SE2d 234 (1952), (26) Hope v. State 492 SE2d 76 (1997), (27) State v. Northcutt 641 SE2d 813 (2007), (28) State v. Guthrie 572 SE2d 309 (2002), (29) Evans v. State 611 SE2d 510 (2005) (30) US v. Williams 112 S.Ct 1735 (1992), State v. Fonseca 681 SE2d 1 (2009),

Statement of Claim

Based upon all these stated facts stated herein this Brief in support of Appeal Appellant request that this Honorable Court vacate sentence and conviction and grant new trial due to sentence imposed being void for lack of Due process and invalid indictment by grand jury in violation of the United States Constitution. Therefore conviction is void Counsel was ineffective in this manner there was no valid indictment to support conviction true bill was stamped and filed on Nov 7, 2019 by Clerk of Court and grand jury foreman further signed indictment 4 days before grand jury was stated to have been convened which is stated within Body of Appellant indictment thus showing indictment by grand jury is invalid and sentence, conviction is void because of this fact. Appellant request that this Honorable Court take all of whats stated herein this Brief into full and careful consideration in determining to vacate my sentence and conviction to grant new trial in this matter to do otherwise would be an abuse of discretion and denial of justice.

Certificate of Service

I, Sha'kel Raheem Dixon Appellate states for the record that I have this day mailed the following Brief In support of Appeal in the Appeal Court of South Carolina to the following addresses listed below on this 25th day of OCT 2022 by placing in the US mail.

Office of Attorney General SC
1610 Assembly St
P. O. Box 11549
Columbia SC 29211

RECEIVED

OCT 31 2022

SC Court of Appeals

Sha'kel Dixon
Sha'kel Raheem Dixon #385800
Lieber Correctional Inst
Ridgeville, SC 29472

SC Court of Appeals
1220 Senate St.
Columbia, SC 29201

WITNESSES

Aiken County Sheriff

Savanna B Phillips

Law Enforcement Case #: 19-021008

JMC

ARREST WARRANT NUMBER

2019A0210200648

FILED November 7 2019

Robert J. White
C.C.P. & C.S.

Ann Sanders
Deputy Clerk

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury
Date: November 07, 2019

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury
Date: *8/19/21*

DOCKET NO. 2019GS0202016

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2019

THE STATE

vs.

SHAKEL RAKEEM DIXON

Shakal^{2nd} Rakeem Dixon

CDR #: 0116

Indictment for

MURDER

§ 16-03-0010; 16-03-0020

J. STROM THURMOND, SOLICITOR

SOUTH CAROLINA)
)
AIKEN)
)

INDICTMENT FOR
MURDER

§ 16-03-0010; 16-03-0020

Court of General Sessions, convened on November 11, 2019, the Grand
County present upon their oath:

HAKEL RAKEEM DIXON, along with others, did in Aiken County on/or
dates of April 30, 2019 and May 1, 2019, feloniously, wilfully and with
ought, murder Derrick Curry by means of shooting him at [redacted] Nokesville
and that the victim did die as a proximate result thereof. All in violation of
0 of the South Carolina Code of Laws (1976), as amended.

ce and dignity of the State, and contrary to the statute in such case made and

Elizabeth B. Young

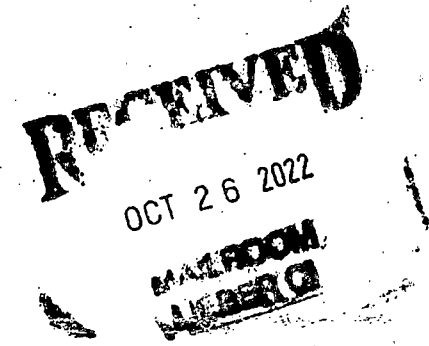
J. STROM THURMOND, SOLICITOR

Shakel Dixon #385800 AA-31
Lieber Correctional Institute
136 Wilborn Ave.
Ridgeville, SC 29472

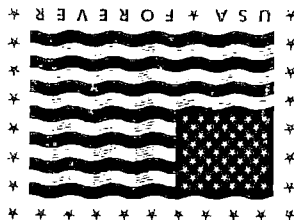


Legal Mail
SC Court of Appeals
1220 Senate St.
Columbia, SC 29201

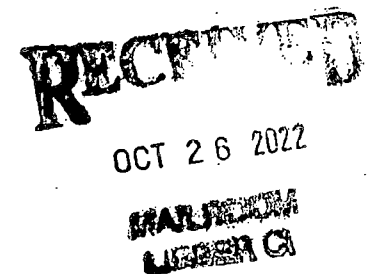
SCDC
Christmas
Packet



Shakel R. Dixon #385800 AA-31
Lieber Correctional Institute
136 Wilborn Ave.
Ridgeville, SC 29472

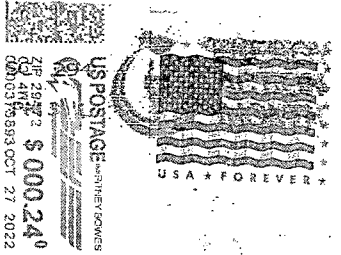


Legal Mail
Attorney General Office
1000 Assembly St.
Columbia, SC 29201



Shakel Dixon #385800 AA-31
Lieber Correctional Institute
136 Wilbarn Ave.
Ridgeville, SC 29472

CHARLESTON
29 OCT 2022



25 29872
25 4M
0908375893 OCT 27 2022
\$ 000.240

RECEIVED

OCT 31 2022

Legal Mail

SC Court of Appeals

SCCC
Chris
Postnet

SC Court of Appeals

1220 Senate St.

Columbia, SC 29201

RECEIVED
OCT 26 2022

29201 373359 00710/29