

5

3-24-2019

APPEAL

RE: Motion to dismiss indictment: 2018A0710200400; because of Denial of Speedy trial; Lack of Prosecution; Failure to bring indictment in next term; Tape recording of February 1 2019 of my Preliminary hearing at Beaufort Magistrate.

APPEAL 6-13-2022 G.H.

TO: ~~Courtney Gibbs~~ - Public defender - ~~Lauren Heath Carroway~~; Judges of General Sessions, Mullen, Buckner, Goldsmith, John Cooper Clerk of Court & SC Commission of indigent defense... The SC Commission of Lawyers Conduct & Chief Justice Isaac M. Stone III, Solicitor, 14th Judicial Circuit

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Mar 09 2023

SC Court of Appeals

Complaint: On February 1 2019, At my Preliminary hearing Beaufort Magistrate

The Presiding Judge was Mark Francis Fitzgibbons on February 1 2019. Ofc Jonathan M Hewitt - B.C.S.O

Proof of witness alleged lies by stating that the safe was crack open. I'd like to introduced the tape into evidence of specific facts. Why ofc Jonathan M Hewitt testimony is not sufficient or isn't trialable or appropriate to support any convictions of indictment: 2018A0710200400. The evidence of the tape recording of the witness statement I Demand for Speedy trial or dismissal of Indictments: 2018A0710200400...

Rule 38.

6-13-2022

2018^{-N-}A0710200399...

Thanks

With kind regards for your time I'm

George Holmes
George Holmes

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MAR 09 2023

S.C. SUPREME COURT

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JUN 16 2022

S.C. SUPREME COURT

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JUN 16 2022

SC Court of Appeals

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

Code of Laws of South Carolina 1976 Annotated:
Title 16: Crimes and Offenses
Chapter 31: Offenses Against Property
Article 5: Burglary, Housebreaking, Robbery and the like

I Mr. George Holmes did not commit the offense of Safecracking
Dismiss the indictment: 2018A0710200400 16-11-6390

PLEASE SEE

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

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)

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.

"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

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

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. Shelton v. State (S.C. 1965) 247 S.C. 41, 145 S.E.2d 420.

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

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

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.

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

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

Code 1976 § 16-11-390, SC ST § 16-11-390
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REC

MAR 09 2023

S.C. SUPREME COURT

3-1-2023

Arthur Miller and John N. Johnson, Petitioners,
State of South Carolina et al. Respondents.

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United States District Court, D. South Carolina,

MAR 09 2023

Columbia Division, Fed 17, 1970. 309 F. Supp. 1287 S.C. SUPREME COURT

(Approx. 8 pages) Civ. A. No. 70-2

5) Such reason apparently was never conveyed to appointed counsel, who would undoubtedly have been relieved to have been released from representation; nor did the petitioner explain how he expected to pay such counsel. There is perhaps an implication in the record that the appointed counsel failed adequately to protect the petitioners right in not raising the plea that, since the petitioners had not actually succeeded in opening the safe involved in their prosecution, they could not BE Guilty Of 'Safecracking'; only of, to use the words of one of the petitioners, 'Safetampering'. However, it has been authoritatively held, in the construction of the South Carolina 'Safecracking' Statute, 'It is not essential to constitute a safe cracking that he shall be Successful in his attempt to break open the safe.'

State v. O'Day (1906) 74 S.C. 448, 450, 54 S.E.

607, 608; See, also, Shelnut v. State (1965) 247 S.C.

41, 45, 145 S.E.2d 420; cf.

United States ex rel. Sadler v. Pennsylvania (D.C. Pa. 1969)

306 F. Supp. 102, 106. It is thus clear that 'Safetampering' in Section 16-337 of the South Carolina Code.

George Holmes

George Holmes

Georges Holmes #289114
Lee CI F-2-2121
990 Wisack Hwy
Bishopville SC 29010

**PLEASE OPEN
IMMEDIATELY**



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MAR 09 2023

S.C. SUPREME COURT

The Supreme Court of SC
Clerk of Court, Patricia A. Howard
P.O. Box 11330
Columbia SC 29211

0117

United States District Court, D. South Carolina, Columbia Division.

Arthur Miller and John N. Johnson, Petitioners,

RECEIVED

v.
State of South Carolina et al. Respondents.

MAR 09 2023

Civ. A. No. 70-2,

Fed. 17, 1970

S.C. SUPREME COURT

Attorneys and Law firms

*1238 Daniel R. McLeod, Atty. Gen., Emmett H. Clair, Asst. Atty. Gen., Columbia, S.C.

OPINION and ORDER

⑤ Such reason apparently was never conveyed to appointed counsel, who would undoubtedly have been relieved to have been released from representation; nor did the petitioner explain how he expected to pay such counsel. There is perhaps an implication in the record that in not raising the plea that, since the petitioners had not actually succeeded in opening the safe involved in their prosecution, they could not be guilty of 'safecracking'; only of, to use the words of one of the petitioners, 'safetampering'. However, it has been authoritatively held, in the construction of the South Carolina 'Safecracking' Statute, 'It is not essential to constitute a safe cracking that he shall be successful in his attempt to break open the safe.'

State v. O'Day (1906) 74 S.C. 448, 450, 54 S.E. 607, 608

See, also, Shelnut v. State (1965) 247 S.C. 41, 45, 145 S.E. 2d 420; c.f.

United States ex rel. Sadler v. Pennsylvania (D.C. Pa. 1969) 306 F.Supp. 102, 106

With kindest Regards I'm
 Thanks
 George Holmes
 George Holmes

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MAR 09 2023

S.C. SUPREME COURT

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

ARREST WARRANT

2018A0710200400

STATE OF SOUTH CAROLINA

County/ Municipality of

Beaufort

THE STATE 183124618 against

George Holmes

Address: 39 Samuel Ln Saint Helena Island, SC 29920-5411

Phone: SSN: Sex: M Race: B Height: 5 7 Weight: 240 DL State: SC DL #: 090492835 DOB: 2/12/1984 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 on 12/28/2018

Signature of Defendant

Signature of Court Clerk

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, 2003 SCCA 318

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

Signature of Issuing Judge 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

of Statutes: Intent 0 Statutes: Plain language; Plain ordinary Common, or literal meaning 1/2 Statutes: In general; factors considered

Certified - A True Copy

Jarri Ann Rosebeau - Clerk of Court Beaufort County, SC - Jennifer Peaboff

2018A0710200399

STATE OF SOUTH CAROLINA

County/ Municipality of

Beaufort

THE STATE against 18S324616

George Holmes

Address: Saint Helena Island, SC 29920-5411

Sex: M Race: B Height: 5 7 Weight: 240 Date: SC DL #:

Agency ORI #: SC0070000 Beaufort County Sheriffs Office Jonathan M Hewitt - S00393 Charge: Burglary / Burglary (Non-Violent) - Second degree

Case Code: 0080 Ordinance Sec: 16-11-0312

Warrant is CERTIFIED FOR SERVICE in the County/ Municipality of The accused to be arrested and brought before me to be with according to the law.

Signature of Judge (L.S.)

RETURN

Copy of this arrest warrant was delivered to defendant George Holmes on 12/28/18 by Lt. K. B. McCoy

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

DEFENDANT COPY

County/ Municipality of

Beaufort Jonathan M Hewitt

Personally appeared before me the affiant being duly sworn deposes and says that defendant did within this county and state on or about 12/28/2018 State of South Carolina (or ordinance of County/ Municipality of Beaufort who

violates the criminal laws of the

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

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 Burglary in the 2nd Degree. The defendant unlawfully forced into the Navy Federal Credit Union ATM. He did so by using a crow bar to break through the outside door. Upon gaining entry attempted to force entry into the ATM box in an attempt 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 / Burglary (Non-Violent) - Second degree

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

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

AFFIDAVIT

DEFENDANT COPY

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

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MAR 09 2023

S.C. SUPREME COURT

12-5-22

The State v. George Holmes, Appellant Case No. 2022-00528

ORDER MOTION
TO BE RELEASED

RECEIVED

MAR 09 2023

S.C. SUPREME COURT

Warrant No.(s) 2018AD710200399, 2018AD710200400
Indictment No.(s) 2019GS0700039, 2019GS0700040

ORDER

The Circuit Court applied the wrong Standard of review, and under the correct Standard of review. Please See:

Arrest Warrant No. 2018AD710200399, States "Non-violent" burglary 2nd degree, Conflict ORDER: on February 26, 2020. Stated Defendant, George Holmes, is charged with Burglary (non-violent) 2nd degree, "Non-violent" offense. Motion by Charles W. Patrick, III, On March 25, 2020, Order Granting Defendant Motion for Bond is hereby ordered as follows: George Holmes, shall be released on his own recognizance, shall be on house arrest. Order for Competency to stand trial Evaluation Pursuant to STATE v. BLAIR. States "George Holmes, charged with one (1) Count of Burglary 2nd degree (non-violent) Please See: Summons No: 607774 Defendant's COPY incident Report #18S324616. May 18, 2022. The Trial Convicted of Burglary 2nd degree (violent) Sentence Sheet and Notice of Appeal Shows (violent).

The Circuit Court applied the wrong Standard of review and under the correct Standard of review.

CREDIBILITY: OF B.C.S.O. Jonathan M Hewitt, 2-1-2019.

ACQUITTAL: That the evidence is insufficient to support a Conviction.

with kindest Regards I'm ^{Thanks,} ~~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*

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

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AUG 08 2022

SC Court of Appeals

RECEIVE

SEP 09 2022

S.C. SUPREME CC

March 26, 2020

RECEIVED

MAR 09 2023

COURT

Certified - A True Copy

Jen Ann Roseneau - Clerk of Court
Beaufort County, SC - Jennifer Petreff

SEP 25 PM 2:19
JEN ANN ROSENEAU
CLERK OF COURT
BEAUFORT COUNTY, S.C.