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SC Court of Appeals

IN THE EIGHTH CIRCUIT COURT OF APPEALS  
Appeals For South Carolina.

DAVID JUSTIN MILLER v. STATE OF SOUTH CAROLINA.  
Case No. 2022A3010101143-1148.(6) Simple Larceny  
2022A3010200446 FTC Theft.

(Emergency Appeal)

The Petitioner, David Justin Miller respectfully brings this matter before the Court to request immediate discharge from imprisonment pursuant to the South Carolina Code of Laws, Title 17, Chapter 23. Code 1976 § 17-23-90.

Background.

The Petitioner was charged with the offenses of 6 Simple Larceny (enhanced) and 1 FTC Theft on Nov 11, 2022 and Nov 12, 2022 respectively, he immediately made formal requests for preliminary hearings to the Laurens Magistrate to determine probable cause. Around Nov 15, 2022, The Petitioner filed several motions, a motion was filed to the Magistrate Countering Actual Innocence and the State lacked Probable Cause on all offenses and requested a Immediate Hearing.

On the 5<sup>th</sup> of November 15<sup>th</sup>, 2022 The Petitioner  
also Filed Motions in General Sessions and  
with The Clerk of Court For a Fast and  
Speedy Trial and For Immediate  
resolution. The motions were processed  
and a request for a Speedy Trial was  
placed on the Public Index For Court  
Electronic Records. I again Filed  
Motions to Dismiss, and For a Speedy Trial  
in December, along with motions requesting  
a preliminary hearing. Shortly thereafter,  
detention staff approached The Petitioner  
at the request of the public defenders  
office stating they wanted permission  
to resolve my cases and needed me to  
fill out an application the officer had.  
I assumed they were aware of my  
innocence, and fact of probable cause,  
and decided to allow them to represent me,  
However, I stipulated on the application  
and by written attached Affidavit  
that I would only accept counsel if I  
did not interfere with motions I already  
Filed, delay resolution of my cases and  
I still have the right to direct access  
to the Courts through Motions.

Around December 10, 2022, Joshua Nasrellahi informed the Petitioner by Mail that he had been appointed Counsel. I immediately wrote back explaining in detail my Innocence and the stipulations of accepting Counsel and that I have already filed for a Speedy Trial and Immediate resolution. By January 2nd, I had not heard from Nasrellahi, I filed a Motion to relieve Counsel and proceed Pro Se. I also filed a 3rd Motion for a Speedy Trial and for Immediate resolution with the Clerk. I never received a response to the Pro Se Motion. Over the next 30 days I sent Personal letters and Motions to General Sessions Court, Magistrate Court and The Clerk, claiming Innocence, and requesting a Trial, Hearing or resolution. On February 4th, 2023, The Plaintiff received a visit from defense Counsel Nasrellahi, he did not have any discovery and could not answer any relevant questions. I told him I already filed to relieve him as Counsel, and requested he do the same. And I was requesting a Speedy Trial and had already done so. He simply ended the meeting saying Naught.

On February 10th, 2023, The Plaintiff  
Unexpectedly appeared In General Sessions  
For a Bond Reduction Hearing that The  
Petitioner himself made Numerous requests  
For by Motion, No One spoke to The  
Petitioner during the course of the day,  
And The Petitioner had no idea what  
was occurring until The Court Announced  
his name and was told to appear before  
The Judge, Nasrollahi, simply stated we  
were having a Bond hearing, I told Nasrollahi  
I was exercising my right to self  
representation, he stated it wasn't possible  
right then, and the hearing began. The only  
Argument Nasrollahi brought up was in  
regards to some prepaid debit cards seized  
by the Laurens Sheriff Office that I  
am not facing charges on and has no bearing  
on the case, I immediately requested the  
Floor and stated I had filed Multiple Motions  
Starting in November For a Speedy Trial,  
that the Motions were filed and the State  
was aware. I argued the cases were not complex  
in nature and therefore could be resolved  
quickly, and there were no indictments  
on the cases, and I was entitled to Discharge.

The Court denied my request and I moved to relieve Counsel, which was granted.

I argue Counsel was INEFFECTIVE and the Court ERRED in not granting release, by Discharge or Acquittal. Pursuant to 54 COL. Title 17, Chapter 23. 17-23-90 I am entitled to such relief.

The State made NO Argument or showing that witnesses have been UNAVAILABLE.

And there is NO Compelling reason the cases have not been presented to The Grand Jury For Indictment.

The Petitioner respectfully requests the Court order His Immediate release and/or discharge From Imprisonment.

Respectfully Submitted.

March 21, 2023.

David J Miller

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