

3-1-2023

Arthur Miller and John N. Johnson, Petitioners,

State of South Carolina et al. Respondents.

RECEIVED

United States District Court, D. South Carolina,

APR 10 2023

Columbia Division, Fed 17, 1970, 309 F. Supp. 1288

Court of Appeals

(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

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

Currentness

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.
End of Document
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I Mr. George Holmes did not commit the offense of Safecracking
Dismiss
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
George Holmes

GH 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
George Holmes

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. 607.

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.
George Holmes George Holmes

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

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.
George Holmes

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

ARREST WARRANT

2018A0710200400

STATE OF SOUTH CAROLINA
 County/ Municipality of
Beaufort

THE STATE 183324618
 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: _____

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** 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 _____
 Affiant's Address **2001 Duke St
 Beaufort, SC 29902-**
 Affiant's Telephone _____

RETURN

A copy of this arrest warrant was delivered to
 defendant **George Holmes**
 on **12/28/2018**

Signature of Constable/Law Enforcement Officer _____

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

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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 Hearing 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

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9 Statutes: Intent
 0 Statutes: Plain language; Plain ordinary
 Common, or literal meaning
 1/4 Statutes: In general; factors considered

Certified - A True Copy
 Jerri Ann Rosejeau - Clerk of Court
 Beaufort County, SC - Jennifer Patten

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 Gibbes~~ - 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 Issac M. Stone III, Solicitor, 14th Judicial Circuit

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...

6-13-2022

^{-N-}
2018A0710200399...

Thanks

With kind regards for your time I'm

George Holmes
George Holmes

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JUN 16 2022

S.C. SUPREME COURT

RECEIVED

JUN 16 2022

SC Court of Appeals

6-26-2022

The Carolina Court of Appeals
The Supreme Court of South Carolina
Clerk of Court of Beaufort South Carolina

Mr. Colin J Hamilton, Esquire
Bar No. 104439, 14 Circuit
Assistant Public Defender
Post office Box 525
1905 Duke Street, Room 210
Beaufort, SC 29901

ORDER MOTION
OF TERMINATION **RECEIVED**

JUN 29 2022
SC Court of Appeals

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

Dear SCACR:

Big Complaint: Ineffective Assistant of Council - Creditability of
Mr. Colin J Hamilton, Esq. Bar No. 104439, Assistant Public Defender 14th Circuit...
As representing me, of my trial re Statute: SafeCracking 16-11-390, in general
Miller v. State of SC, D.C.S.C. 1970, 309 F. Supp. 1287...
Perjury and Subornation, when B.C.D.O., Affiant: Jonathan M Hewitt,
At my preliminary hearing on 2-1-2019, he committed Perjury 16-9-10,
B.C.S.O. Jonathan M Hewitt, committed Perjury and Subornation,
under oath, Oath false statement, testimony, Affidavit,
Perjury generally, Nature of Preliminary hearing 21. On 2-1-2019,
Creditability of Jonathan M Hewitt, at my trial on May 18, 2022, ...
My Arrest Warrant # 2018A0110200399, States: (non violent) Burglary 2nd
degree, But the Jury trial convicted me, burglary 2nd degree (violent)
How?? Mr. Colin J Hamilton, Is Ineffective Assistant of Council, Also
Motion by Charles W. Patrick, III, appointed Counsel, held on
March 25, 2020, order for my bond, stated I, George Holmes,
shall be release on my own recognizance and Motion order
for competency to stand trial Evaluation Pursuant to
STATE V. BLAIR

with kindest regards I'm ~~George~~ ^{Thanks} Holmes
George Holmes

Georg Holmes #289114
Lee CI/F-2-2/21
990 W'sAcky Hwy
Bisopville SC 29010

PLEASE OPEN
IMMEDIATELY



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APR 10 2023
SC Court of Appeals

South Carolina Court of Appeals
JENNY Abbott Kitchgs, Clerk
Post office Box 11629
Columbia, South Carolina 29244

LEGAL MAIL ONLY

