

NINTH CIRCUIT PUBLIC DEFENDER
BERKELEY & CHARLESTON COUNTY
O.T. WALLACE COUNTY OFFICE BUILDING
101 MEETING STREET, 5th FLOOR
CHARLESTON, SC 29401-2214
(843) 958-1850
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April 06, 2023

RECEIVED
APR 10 2023
SC Court of Appeals

VIA U.S. MAIL

Romane Clare (00390157)
Kirkland Correctional Institution
4344 Broad River Rd.
Columbia, SC 29210
A1A-0020-B

RE: State of South Carolina vs. Romane Clare

Dear Mr. Clare:

I am writing to advise of the next steps in your appeal. I will explain what I believe is an arguable basis for appeal in your case, but you must raise this or any other issue that you believe creates an arguable basis for an appeal with the South Carolina Court of Appeals within twenty (20) days of the date of this letter. You may give an explanation of the issue you would like to appeal by sending a letter to the Court at the following address:

South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

As you know, I filed a Notice of Appeal on your behalf, in which I indicated that I am not aware of any basis to appeal your guilty plea to Voluntary Manslaughter or the resulting sentence. A copy of that Notice of Appeal is enclosed.

However, in the Notice of Appeal, I also raised the outcomes of two pretrial hearings: (1) the August 30, 2022, motion for immunity from prosecution under the South Carolina Protection of Persons and Property Act, and (2) the February 1, 2023, motion to suppress illegally obtained evidence. As I will explain further, I believe the denial of your motion for immunity from prosecution may provide a basis for appeal.

"In South Carolina, a guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." *State v. Rice*, 401 S.C. 330, 331-32 (2013) (citing *Hyman v. State*, 397 S.C. 35, 723 S.E.2d 375 (2012)). A motion suppress illegally obtained

Cameron J. Blazer, Esquire
Ninth Circuit Public Defender

Megan S. Ehrlich, Esquire
Charleston County Public Defender

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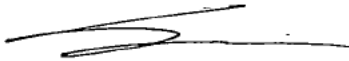
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evidence is clearly a constitutional claim, so I believe your guilty plea prevents you from appealing the denial of that motion. However, a motion for immunity from prosecution is jurisdictional in nature, so the rule against conditional guilty pleas should not prevent you from appealing the denial of your motion for immunity from prosecution. I have attached a copy of Judge Culbertson's order denying your motion for immunity from prosecution.

Sincerely,



Stephen M. Bowden

cc: South Carolina Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM CHARLESTON COUNTY
Court of General Sessions**

The Honorable Bentley Price Presiding Judge

**INDICTMENT NOS.: 2021-GS-10-00417; 2021-GS-10-00418
WARRANT NOS.: 2019A1010205164; 2019A1010205165**

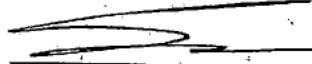
STATE OF SOUTH CAROLINA, RESPONDENT

VS.

ROMANE CLARE, APPELLANT

NOTICE OF APPEAL

Romane Clare appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Bentley Price following Clare's guilty plea on February 2, 2023. Counsel is not aware of any basis to appeal Clare's guilty plea or sentence. However, Clare had a Duncan hearing on August 30, 2022, where his motion for immunity from prosecution under the South Carolina Protection of Persons and Property Act was denied by the Honorable Benjamin H. Culbertson on the record and in a written order filed September 2, 2022. In addition, the Honorable Bentley Price denied Clare's motion to suppress illegally obtained evidence after a hearing on February 1, 2022.



Stephen M. Bowden, Appointed Counsel for Romane Clare
Charleston County Public Defender's Office
101 Meeting Street, 5th Floor
Charleston, SC 29401

BY WSS
JULIE J. ARMSTRONG
CLERK OF COURT

2023 FEB 13 PM 2:17

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Other counsel of record are:
Jessica Baldwin, Assistant Solicitor
Office of the Solicitor, Ninth Judicial Circuit
O.T. Wallace County Office Building
101 Meeting Street, 4th Floor
Charleston, SC 29401
(843) 958-1900

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions

The Honorable Bentley Price, Presiding Judge

INDICTMENT NOS.: 2021-GS-10-00417; 2021-GS-10-00418
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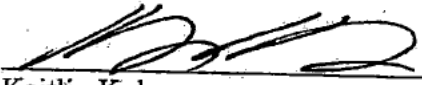
STATE OF SOUTH CAROLINA, RESPONDENT

VS.

ROMANE CLARE, APPELLANT

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on, Assistant Solicitor for Charleston County, by hand delivering a copy of it to the Charleston County Solicitor's Office at 101 Meeting Street, Charleston, South Carolina 29401, on Feb 13 2023.


BY
Kaitlin Kuhn
Paralegal to Stephen M. Bowden
Charleston County Public Defender
O. T. Wallace County Office Building
101 Meeting Street, 5th Floor
Charleston, SC 29401
(843) 958-1850

2023 FEB 13 PM 2:17
JILLIE J. ARMSTRONG
CLERK OF COURT

FILED

Dated: 2/13/2023

FILED

STATE OF SOUTH CAROLINA THE COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON NINTH JUDICIAL CIRCUIT

2022 SEP 12 PM 1:24
JULIE J. ARMSTRONG
CLERK OF COURT
BY *Re*

STATE OF SOUTH CAROLINA
vs.
ROMANE CLARE,
DEFENDANT.

**ORDER DEYING DEFENDANT'S FOR
IMMUNITY FROM CRIMINAL PROSECUTION
UNDER §16-11-410 et. seq.**

Arrest Warrant #2019A1010205164
Arrest Warrant #2019A1010205165
Indictment #2021-GS-10-00417
Indictment #2021-GS-10-00418

On August 30, 2022, this court held a hearing regarding Defendant's Motion for Immunity from Criminal Prosecution under SC Code §16-11-410 et. seq. Based upon the stipulations of counsel and after hearing testimony from the defendant and defendant's witnesses, this court finds:

1. The defendant shot and killed the victim (defendant's wife) in this case.
2. Notwithstanding the defendant's allegations that he thought someone was breaking into his house and that he shot his wife by mistake, the undisputed evidence is that the defendant failed to complete any 911 call, fled the scene upon hearing police sirens, withdrew money from his bank account the following day, and drove to Florida where he was ultimately arrested.
3. The defendant and his wife have a history of a violent marriage.
4. The defendant failed to prove self-defense by a preponderance of the evidence and, therefore, is not immune from criminal prosecution under either §16-11-440.

NOW, THEREFORE, it is hereby

ORDERED, that the Defendant's Motion for Immunity from Criminal Prosecution under SC Code §16-11-410 et. seq. is DENIED; it is further

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MHC

ORDERED, that none of the findings hereunder shall have any precedential value at any subsequent hearing or trial in this case.

Benjamin H. Culbertson

The Honorable Benjamin H Culbertson
Presiding Judge

Charleston, South Carolina
Dated: September 1, 2022

FILED
2022 SEP 12 PM 1:24
JULIE J. ARMSTRONG
CLERK OF COURT
BY

CHARLESTON COUNTY PUBLIC DEFENDER
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