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SC Court of Appeals

1.

The trial judge erred by denying Appellant’s motion for a directed verdict for the offense of second degree burglary where Appellant allegedly entered a standalone structure housing an automated teller machine (ATM), which is not a “building” as intended by the legislature for purposes of S.C. Code Ann. § 16-11-312(B)(3).....5

2.

The trial judge erred by denying Appellant’s motion for a directed verdict for the offense of safecracking where the state alleged Appellant attempted to pry open an automated teller machine (ATM) since an ATM does not constitute “a safe used for keeping money or other valuables” as intended by the legislature for purposes of S.C. Code Ann. § 16-11-390.....9

3.

The trial judge erred by denying Appellant’s motion to relieve counsel and proceed *pro se* without conducting the proper inquiry pursuant to Parotta v. California, 492 S. 306 (1975) in violation of Appellant’s federal and state constitutional rights..... 12

CONCLUSION.....17

STATEMENT OF THE CASE

A Beaufort County grand jury indicted Appellant on April 18, 2019 for second degree burglary (violent) and safecracking. R. * (Indictments). His case was called to trial on May 16, 2022 before the Honorable Carmen Mullen, and a jury. Tr. 1. Assistant Solicitors Jared Shedd and Samantha Molina represented the state. Tr. 1. Colin Hamilton represented Appellant. Tr. 1.

On May 18, 2022, the jury found Appellant guilty as indicted. Tr. 242, l. 23 – 243, l. 3. He was sentenced to twenty years suspended upon the service of fifteen years imprisonment and five years' probation for safecracking and fifteen years concurrent for second degree burglary. Tr. 257, l. 25 – 258, l. 14.

This appeal follows.

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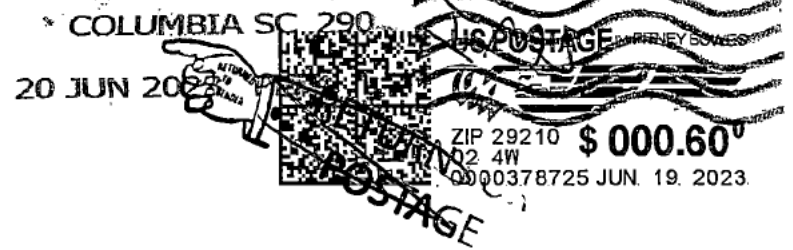
claimed Appellant appeared to be the person in the still shots from the surveillance footage, although Appellant was wearing different clothing than the intruder. Tr. 152, l. 9 – 153, l. 6; Tr. 157, ll. 3-7.

Deputy Breland continued to detain Appellant in the median of the roadway while a bloodhound tracked. Tr. 153, ll. 5-13. Sergeant Tafoya, the handler for the dog, claimed the dog tracked from the ATM to where Appellant was detained in the median of Lady's Island Drive. The dog allegedly went "straight up to [Appellant] and put his nose in his crotch." Tr. 168, l. 16 – 171, l. 3. Appellant was subsequently arrested and charged with second degree burglary and safecracking.

A DNA profile developed from "swabs of the interior of the ATM hood and safe" was 1.34 million times more likely to match the DNA profile of Appellant than a coincidental match to an unrelated individual. Tr. 183, ll. 1-9; Tr. 139, l. 23 – 140, l. 3. Additionally, a DNA profile developed from a swab of blood found on the exterior of the door to the structure housing the ATM was 2.46 nonillion times more likely to match Appellant than a coincidental match to an unrelated individual. Tr. 184, ll. 1-25; Tr. 139, ll. 20-23.

The jury found Appellant guilty as indicted. Tr. 242, l. 23 – 243, l. 3.

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



The Supreme Court of SC
Patricia A. Howard/Daniel E Shearouse
P.O. Box 1330
Columbia, SC 29211

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