

(S)

6-14-2022

George Holmes
#289114

Request TO STAFF

In The Court of General
Sessions
Fourteenth Judicial Circuit

The Supreme Court of South Carolina

George Holmes, Petitioner,

~~Appel~~

~~Motion To Release~~
Warrant#

2018A0710200399-N-2018A0710200400

V.
State of South Carolina, Respondent.

~~Appel Case No. 2022-00132~~

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JUN 22 2022

SC Court of Appeals

ORDER

This matter above Pursuant to a Motion by George Holmes,
Defendant to be ~~Release from S.C.D.C.~~ I order that
on 6-14-2022.

FOR The Court

with kindest regards I me

Thanks

George Holmes
George Holmes

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JUL 24 2023
SC Court of Appeals

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JUN 17 2022
S.C. SUPREME COURT

~~The State v. George Holmes Appellate Case No. 2022-000128~~

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

Currentness

PLEASE SEE
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)

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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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~~The State v. George Holmes did not commit the offense of safecracking~~

Notes Of Decisions (10)

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

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

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.

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

GH 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.

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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:

Saint Helena Island, SC 29920-5411

Phone: SSN: Sex: M Race: B Height: 5 7 Weight: 240 DL State: SC DL #: DOB: Agency ORI #: SC0070000 Prosecuting Agency: Beaufort County Sheriffs 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

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

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

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Beaufort

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 BCSSO 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 on 12/28/2018 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: County/ Municipality/ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

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

Certified - A True Copy

Jerri Ann Rosejeau - Clerk of Court Beaufort County, SC - Jennifer Peters

10200399

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 State: SC DL #:

Agency ORI #: SC0070000 Beaufort County Sheriff's Office Jonathan M Hewitt - S00393 Offense: Burglary / Burglary (Non-Violent) - Second degree

Offense 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.

(L.S.)

Signature of Judge

RETURN

Copy of this arrest warrant was delivered to defendant

George Holmes 12/28/18

Signature of Constable/Law Enforcement Officer

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

DEFENDANT COPY DEFENDANT COPY

DEFENDANT COPY DEFENDANT COPY

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

AFFIDAVIT

DEFENDANT COPY

Approved by S.C. Attorney General April 21, 2003 SCCA 516

Beaufort 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 in the following particulars:

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

5

~~APPEAL~~

3-24-2019

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.

Jeffery Stephens
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. ~~of 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 triable 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

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JUN 16 2022

SC Court of Appeals

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

Arthur Miller and John N. Johnson, Petitioners,

v.
State of South Carolina et al. Respondents.

Civ. A. No. 70-2.

Fed. 17, 1970

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 crackinger ~~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. 102106

With kindest Regards I'm
Thanks
 George Holmes
 George Holmes

~~The State vs George Holmes, Appellant Case No. 2022-000128~~

~~ORDER MOTION
TO BE RELEASED~~

Warrant No. (s) 2018AD710200399, 2018AD710200400
Indictment No. (s) 2019650700039, 2019650700040

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 (nonviolent)

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

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of General Sessions

The Honorable Carmen T. Mullen, Circuit Court Judge

Warrant No (s): 2018A0710200399, 2018A0710200400
Indictment No (s): 2019GS0700039, 2019GS0700040

STATE OF SOUTH CAROLINA,

Respondent.

v.

GEORGE HOLMES,

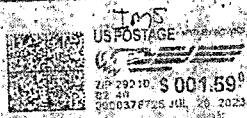
Appellant.

~~NOTICE OF APPEAL~~

George Holmes appeals his trial, conviction and sentence on the charges of Burglary -
(Second Degree (Violent)) and Safecracking before the Honorable Carmen T. Mullen, Presiding
Judge, Fourteenth Judicial Circuit. George Holmes also appeals the Denial of his Motion for
Direct Verdict on May 18, 2022 before the Honorable Carmen T. Mullen, Presiding Judge,
Fourteenth Judicial Circuit.

[SIGNATURE PAGE TO FOLLOW]

George Holmes #289114
Lee CE/F-7-11-85
990 W. Sack Hwy
Bishopville SC 29010



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JUL 24 2023
SC Court of Appeals

South Carolina Court of Appeal
Alan McCrory Wilson
1220 Senate Street
Columbia, South Carolina 29201

LEGAL MAIL ONLY

