

10-24-2023

South Carolina Court of Appeals

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SC Court of Appeals

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

I, Mr. George Holmes, writing regarding my case knowing
I did not commit the crime they got me charge with.
Burglary 2d and Safecracking.

Please see: what I'am sending.

May you please let me know how long is this process?

With kindest regards I'am ~~George Holmes~~
George Holmes

LEGAL MAIL ONLY

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

ARREST WARRANT

2018A0710200400

STATE OF SOUTH CAROLINA
 County/ Municipality of
 Beaufort

THE STATE 189124618
 against

George Holmes

Address: **Saint Helena Island, SC 29920-5411**

Phone: SSN: **[REDACTED]**

Sex: **M** Race: **B** Height: **5 7** Weight: **240**

DL State: **SC** DL #: _____

DOB: _____ Agency ORI #: **SC0070000**

Prosecuting Agency: **Beaufort County Sheriff's Office**

Prosecuting Officer: **Jonathan M Hewitt - S00393**

Offense: **Burglary / Safecracking**

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
 Beaufort)

AFFIDAVIT ORIGINAL Form Approved by S.C. Attorney General April 21, 2003 SCCA 111

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 _____

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
 Beaufort)

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

Affiant's Telephone _____

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: _____

RETURN

A copy of this arrest warrant was delivered to defendant on **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 29901 1128

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

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** (L.S.))
 Judge's Address **104 Ribaut Rd**
Beaufort, SC 29901-2207
 Judge's Telephone **(843)255-5700**

Issuing Court: Magistrate Municipal Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL

of Statutes: Intent
 0 Statutes: Plain language, Plain ordinary
 Common, or literal meaning
 In Statutes: In general, factors considered

Certified - A True Copy

Jerril Ann Rosebeau - Clerk of Court
 Beaufort County, SC - Jennifer Pettif.

3-1-2023

Arthur Miller and John N. Johnson, Petitioners,
State of South Carolina et al. Respondents.

United States District Court, D. South Carolina,
Columbia Division. Fed 17, 1970. 309 F. Supp. 1287
(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

16-11-0390

I'm Not guilty

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.
© 2019 Thomson Reuters. No claim to original U.S. Government Works.

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

Dismiss 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 (phone 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. Shelton 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. Larceny 2

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
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.

12-5-22

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

ORDER MOTION
TO BE RELEASED

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

NOV 06 2023

SC Court of Appeals

ORDER

The Circuit Court applied the wrong Standard of review, and under the Correct Standard of review. Please See:

Arrest Warrant No. 2018A0710200399, 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 (non-violent)

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.

Thanks,

with kindest Regards I'm ~~George~~ Holmes

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ARGUMENT

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 ~~Faretta v. California, 422 U.S. 806 (1975)~~ in violation of Appellant’s federal and state constitutional rights..... 12

CONCLUSION.....17

25. However, Appellant was not satisfied.” He asserted, “It’s not looking right at all.” Tr. 126, ll. 5-7.

The judge then inquired whether Appellant was under the influence of any drugs or alcohol. Appellant responded, “No, ma’am” and again stated that he was “not satisfied with his [counsel’s] service.” The following colloquy then took place:

THE COURT: Sir, if you want him to be relieved, I can entertain that. But we’re still going forward with the trial and you would have to represent yourself.

~~MR. HOLMES: I’ll represent myself. Mental health and all – let’s represent myself. And at the Lord Jesus, I’ll represent myself. I don’t want his service. I’ll represent myself.~~

MR. HAMILTON [Defense Counsel]: It would be against the advice of –

THE COURT: Counsel, obviously. Mr. Holmes, we need to go forward. We’re in the middle of your trial, sir. You have not been to law school. You don’t know the rules of evidence and you will do better having the assistance of counsel.

~~MR. HOLMES: God is all – I don’t want his service.~~ This is not going right.

MR. HAMILTON: I’d like to reserve the right that Mr. Holmes can re-raise this motion at a time in the future if he so chooses.

THE COURT: That’s fine. That’s fine. Okay. Let’s bring the jury in.

Tr. 126, l. 12 – 127, l. 8 (emphasis added).

The jury then entered the courtroom and testimony resumed. Tr. 127, ll. 9-12. ~~The judge never entertained Appellant’s motion to relieve counsel and represent himself nor did she conduct a Farettà colloquy.~~

Standard of Review

“Whether a defendant has knowingly, intelligently, and voluntarily waived his right to counsel is a mixed question of law and fact which appellate courts review de novo.” State v. Samuel, 422 S.C. 596, 602, 813 S.E.2d 487, 490 (2018) (citing United States v. Lopez-Osuna,

CONCLUSION

Based on the foregoing argument, ~~this Court should direct a verdict of acquittal~~ for the offenses of second degree burglary and safecracking. ~~In the alternative, Appellant respectfully requests this Court reverse his convictions and remand for a new trial.~~

Respectfully submitted,

~~s/ Lara M. Caudy~~
~~Lara M. Caudy~~
~~Appellate Defender~~

ATTORNEY FOR APPELLANT

~~This 19th day of April, 2023.~~

George Holmes #289114
Lee CI/F-7-N-85
990 Wisack Hwy
Bishopville SC 29010

COLUMBIA SC 290

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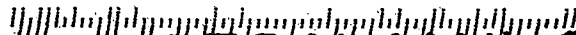
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