

New ethics rule requires prosecutors to turn over evidence in wrongful convictions

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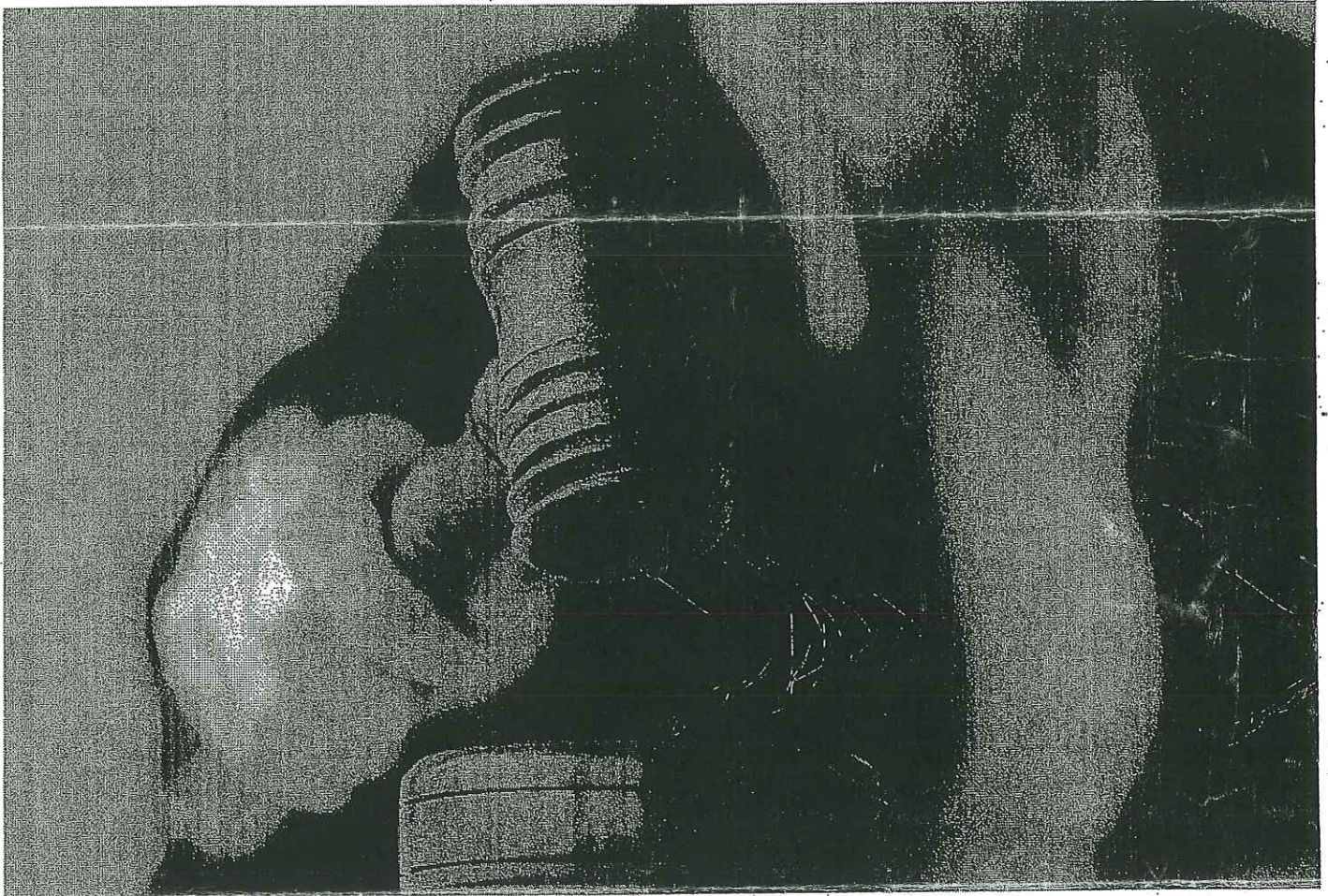
Nov 13 2023

BY STEVE GARRISON SGARRISON@POSTANDCOURIER.COM

AUG 18, 2021

S.C. SUPREME COURT

SC Court of Appeals



ISTOCK

Defendants wrongfully convicted of a crime in South Carolina have an unexpected new ally: prosecutors.

Under changes made last week to the S.C. Rules of Professional Conduct, prosecutors are required to disclose evidence of innocence discovered after a defendant is convicted of a crime.

South Carolina joins about two dozen other states in adopting such ethics rules for prosecutors, which were first developed by the American Bar Association in 2008.

Some states, including North Carolina and Arizona, have gone further, requiring all attorneys to disclose credible and material evidence of a wrongful conviction to the defendant or his or her attorney.



NEWS

SC Batman faces dark nights in prison as caped crusader fights drug charge

BY GLENN SMITH GSMITH@POSTANDCOURIER.COM

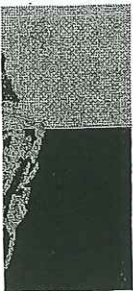
John Freeman, professor emeritus for the University of South Carolina School of Law, said the new rules emphasize the special role prosecutors play in pursuing justice.

“The prosecutor’s job is to see that the right thing is done,” Freeman said. “And to protect the public by seeing that justice is as fair as it possibly can be. Not to put people in jail.”

Freeman said the rules eliminate ambiguity regarding a prosecutor’s responsibilities when new evidence is unearthed that casts significant doubt on a prior conviction.

Ninth Circuit Solicitor Scarlett Wilson said she supported the rule change.

“I think the rule is good and basically ‘codifies’ what good prosecutors do already,” she said.



UNCOVERED

South Carolina politicians blow off their ethics fines with few consequences

BY AVERY G. WILKS AND JOSEPH CRANNEY AWILKS@POSTANDCOURIER.COM
JCRANNEY@POSTANDCOURIER.COM

13 MIN TO READ

Under the new rules, when a prosecutor becomes aware of “credible, material” evidence that indicates a defendant was wrongfully convicted, the prosecutor is required to disclose that evidence to the defendant, or the defendant’s attorney, as well as the chief prosecutor in the jurisdiction where the conviction was obtained.

A prosecutor who knows of "clear and convincing" evidence of a wrongful conviction in his or her jurisdiction has an ethical obligation to remedy the conviction, the rules state.

Prosecutors will need to determine on a case-by-case basis whether newly discovered evidence requires disclosure, Freeman said, but the rule requires they give serious thought to new evidence.

The new rule also provides hope for wrongfully convicted defendants who have otherwise exhausted their right to appeal, Freeman said.



NEWS

Law enforcement missteps in Paul Murdaugh boat crash case captured in new recordings

BY THAD MOORE AND STEPHEN HOBBS TMOORE@POSTANDCOURIER.COM
SHOBBS@POSTANDCOURIER.COM

"What this says, basically, is that so long as there is a possibility of proof surfacing that shows that the guy is innocent, it ain't over," Freeman said. "And, frankly, isn't that the way it should be?"

More than 2,800 defendants have been exonerated of crimes they did not commit since 1989 in the United States, including nine defendants in South Carolina, according to the National Registry of Exonerations.

Reach Steve Garrison 843-607-1052. Follow him on Twitter @SteveGarrisonDT.

STEVE GARRISON

Steve Garrison covers breaking news and public safety. He's a native of Chicago who previously covered courts and crime in Wisconsin, New Mexico and Indiana. He studied journalism at the University of Wisconsin-Milwaukee and the University of Missouri.

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

STATE OF SOUTH CAROLINA

-vs-

GEORGE HOLMES

Defendant.

IN THE COURT OF GENERAL SESSIONS
FOURTEENTH JUDICIAL CIRCUIT

WARRANT #s:

2018A0710200399 and 2018A0710200400

**ORDER GRANTING DEFENDANT'S
MOTION FOR BOND**

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

non-violent Released

This matter is before me pursuant to a motion by Charles W. Patrick, III, appointed counsel for the Defendant, George Holmes, for an own recognizance bond on the above referenced cases. Following a phone conference hearing held on March 25, 2020, I ordered that should Mr. Holmes provide a stable living address, he would be allowed release on his own recognizance pending trial in the above reference matter. Mr. Holmes's permanent address is:

George Holmes
39 Samuel Lane
St. Helena Island, SC 29920

Bond is hereby ordered as follows: *non-violent Released*

1. Mr. Holmes shall be released on his own recognizance.
2. Mr. Holmes shall reside at 39 Samuel Lane, St. Helena Island, SC 29920 until the resolution of his case and shall be on house arrest.
3. Mr. Holmes may only leave this residence for court appearances, meetings with his attorney, and for his employment.

AND IT IS SO ORDERED.

Judge Carmen T. Mullen

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SEP 09 2022

S.C. SUPREME CC

March 26, 2020

RECEIVED

AUG 08 2022

SC Court of Appeals

Certified - A True Copy

Jeri Ann Roseneau - Clerk of Court
Beaufort County, SC - Jennifer Petroff

2020 MAR 25 PM 2:19
JEROME ROSENEAU
CLERK OF COURT
BEAUFORT COUNTY, S.C.

2018A0710200399

STATE OF SOUTH CAROLINA

County/ Municipality of

Beaufort

THE STATE against 18SS324816

George Holmes

Saint Helena Island, SC 29920-5411

M Race: B Height: 5 7 Weight: 240 DL #: SC

Agency ORI #: SC0070000

Beaufort County Sheriffs Office

Jonathan M Hewitt - S00393

Burglary / Burglary (Non-Violent) - Second degree

0080

16-11-0312

CERTIFIED FOR SERVICE in the

County/ Municipality of

Signature of Judge (L.S.):

RETURN

copy of this arrest warrant was delivered to

defendant George Holmes

12/28/18

Signature of Constable/Law Enforcement Officer

Signature of Judge

Beaufort County General Sessions

PO Box 1128

102 Ribaut Road, Rm. 208

Beaufort, SC 299011128

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

County/ Municipality of

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

in the following particulars: Burglary (Non-Violent) - Second degree

DESCRIPTION OF OFFENSE: Burglary (Non-Violent) - Second degree

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

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

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

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

DEFENDANT COPY

AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

Court News ...

2020-03-19-01

The Supreme Court of South Carolina

RE: Mediation Settlement Conferences

ORDER

In recognition of the difficulties the COVID-19 pandemic may have on lawyers, parties, and other persons whose physical presence is ordinarily required in mediation settlement conferences governed by the South Carolina Court-Annexed Alternative Dispute Resolution Rules, I find it necessary to temporarily adjust the usual manner of attendance at mediation settlement conferences required by Rule 6(b) of the Alternative Dispute Resolution Rules.

Pursuant to Article V, Section 4 of the South Carolina Constitution, it is ordered that, upon the request of a required attendee, the Chief Judge for Administrative Purposes of the circuit shall issue an order permitting attendance by video conferencing.

This Order is effectively immediately and remains in effect until modified or rescinded by order of the Chief Justice.

s/Donald W.

Beatty

Donald W. Beatty

Chief Justice of South Carolina

Columbia, South Carolina
March 19, 2020

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

ORDER

In Re: COVID-19 Pandemic

On March 13, 2020, the Governor of South Carolina declared a State of Emergency in South Carolina pursuant to Executive Order 2020-08. This action was taken in response to the COVID-19 Pandemic. The Administrative Law Court (Court), in recognition of this crisis and the potential effect on the citizens of South Carolina especially those with pending matters before the Court, finds it necessary to issue this order regarding deadlines before the Court.

In accordance and consistent with prior practice of this Court and of the South Carolina Supreme Court, due dates for filings with the Court on or after the date of this Order are hereby extended for thirty (30) days. All Rules of Procedure regarding the method for the filing and service of documents are still in effect. **This Order does not apply to the statutory timeframes for filing the initial request for a hearing or notice of appeal.** Further, no filing fee will be required for a motion for continuance for hearings scheduled in the next 30 days, but such motion must be filed with the presiding judge's office.

All litigants are directed to frequently monitor the Court's website for further updates during this emergency. This Order shall remain in effect until and unless further modified or rescinded by the Court.



Ralph King Anderson, III
Chief Administrative Law Judge

Columbia, South Carolina
March 24, 2020

1-30-23

The State v. George Holmes, Appellate Case No. 2020-000728

37 No. 12 West's Criminal Law New Volume 37, Issue 12

June 5, 2020 Criminal Law News - Post Conviction Relief

Forms: Prisoner was entitled to emergency Compassionate release from incarceration, under First ~~Act~~ Step Act, base on COVID-19 outbreak at Prison.
"Brief"

Federal Prisoner Convicted of theft of government funds and tax evasion was entitled to emergency Compassionate release from incarceration, under First Step Act, base on COVID-19 outbreak at prison, prisoner was first-time offender, offenses of conviction were non-violent prisoner was retired police officer who volunteered in rescue and cleanup efforts at the World Trade Center following the terrorist attacks of September 11 2001 Continued incarceration posed serious health risks to presented extraordinary and unprecedented threat incarcerated person, and to prison in particular.

United States v. Scparta, 125 A.F.T.R. 2d 2020-1774, 2020 WL 1910481 (S.D.N.Y. 2020)

§ 19.8 Releasing prisoners? detainees in response to COVID-19 state Court administrative responses.

Applying "WILD FACTS" To Federal Detention in the Pandemic

Federal Detention - N- "WILD FACT" During the COVID-19 pandemic.

The U.S. Attorney General told BOP in a March 2020 memorandum that there are some at risk inmate who are non-violent.

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

STATE OF SOUTH CAROLINA,

vs.

GEORGE HOLMES,

Defendant.

IN THE COURT OF GENERAL SESSIONS
FOR THE FOURTEENTH JUDICIAL CIRCUIT

2022 APR - 4 PM 12:38

WARRANT NUMBER(s): 2018A0710200399-400

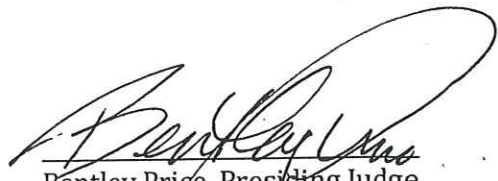
JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

ORDER RELIEVING COUNSEL

This matter came before the court on Defense Counsel's motion to be relieved of counsel. Upon hearing from both parties I find good cause has been shown to relieve Defense Counsel from further representing Defendant in these matters.

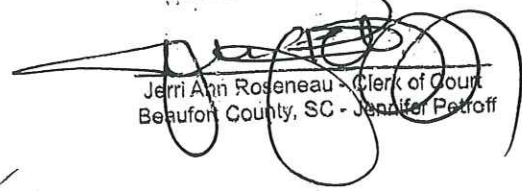
It is therefore ordered that attorney Ashley B. Cornwell is hereby relieved of counsel in this matter.

IT IS SO ORDERED!


Bentley Price, Presiding Judge
14th Judicial Circuit

Beaufort, South Carolina
April 4, 2022

Certified - A True Copy


Jerrri Ann Roseneau - Clerk of Court
Beaufort County, SC - Jennifer Petroff

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)
)
STATE OF SOUTH CAROLINA)
)
vs.)
)
GEORGE HOLMES,)
Defendant)

IN THE COURT OF GENERAL SESSIONS
Indictment No(s): 2019GS070039-40
Warrant No(s): 2018A0710200399-40

101831

CONFLICT ORDER

GH George Holmes 6-13-2022

The 14th Circuit Public Defender's Office has been appointed to represent the Defendant in the above-captioned matters. *Please dismiss it's no way*

The Defendant is charged with Burglary (non-violent) 2nd Degree and Safecracking. The Defendant filed a Motion to Relieve Counsel on February 11, 2020. This hearing was heard on February 26, 2020. *WOW*

IT IS THEREFORE ORDERED that the 14th Circuit Public Defender's Office is relieved of the Representation of the Defendant, and Contract Attorney, Charles Patrick, is appointed to represent the Defendant. *WOW*

IT IS SO ORDERED,

The Honorable Carmen T. Mullen
Presiding Judge
Fourteenth Judicial Circuit

Beaufort, South Carolina

February 26, 2020

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SEP 14 2022

S.C. SUPREME COURT

Certified - A True Copy

[Signature]
Jerri Ann Roseeap - Clerk of Court
Beaufort County, SC - Jennifer Petroff

12-5-22

The State v. George Holmes, Appellant Case No. 2022-00528

ORDER MOTION
TO BE RELEASED

Warrant No.(s): 2018AD710200399, 2018AD710200400
Indictment No.(s) 2019GS0700039, 2019GS0700040

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 (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

0-15 YEARS

STATE

GEORGE HOLMES

INDICTMENT/CASE#: 2019GS0700039

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

STATE

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

GEORGE HOLMES

AKA: _____
Race: Black Sex: Male Age: 34

DOB: _____ SS#: _____

Address: _____

City, State, Zip: _____

DL#* _____ SID# _____

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Burglary 2nd Degree Violent ^{States} non violent Please see A/W#: 2018A0710200399

In violation of § 16-11-312(B)(3) of the S.C. Code of Laws, bearing CDR Code # 0086

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Solicitor _____ SC Bar # _____ Defendant _____ Attorney for Defendant _____ SC Bar # _____

WHEREFORE, the Defendant is committed to the State Department of Correction County Detention Center,

for a determinate term of 15 days/months/years Time Served Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services stamped condition of probation, which are incorporated by reference.

The sentence shall run CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. 503 days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

SCCA/217 (07/2021)

Certified A True Copy
Jerrri Ann Roseneau - Clerk of Court
Beaufort County, SC - Jennifer Petroff

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS0700039

States non violent

A/W#: 2018A0710200399

Date of Offense: 12/28/2018

S.C. Code §: 16-11-312(B)(3)

CDR Code #: 0086

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SENTENCE SHEET
AUG 08 2022

SC Court of Appeals

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SEP 09 2022

S.C. SUPREME COURT

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 C.I./F-7-N-85
990 Wisacky Hwy
Bishopville, SC 29010

Opened and Inspected by BPS Security

Date: 11/13/23 Time: 11:49 am

US POSTAGE PAID BY FITZNEY BOWEN
ZIP 29010 \$001.19
02 4W
0000373846 NO

Chief Justice Donald W Beatty
1231 Gerrais Street
Columbia, SC 29201

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NOV 13 2023

S.C. SUPREME COURT

LEGAL MAIL ONLY

29201-320631